

**CHALLENGES FOR CANNABIS AND BANKING:
OUTSIDE PERSPECTIVES**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SIXTEENTH CONGRESS
FIRST SESSION
ON
EXAMINING CHALLENGES THAT STATE-SANCTIONED BUSINESSES IN
THE CANNABIS INDUSTRY HAVE WHEN ATTEMPTING TO ACCESS
MAINSTREAM FINANCIAL SERVICES

JULY 23, 2019

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



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CHALLENGES FOR CANNABIS AND BANKING: OUTSIDE PERSPECTIVES

TUESDAY, JULY 23, 2019

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:04 a.m., in room SD-538, Dirksen Senate Office Building, Hon. Mike Crapo, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman CRAPO. The Committee will now come to order.

Before we get started, we have two witness panels this morning. Senator Brown and I will give our opening remarks first, and then we will hear from Senators Gardner and Merkley. Once the Senators have finished their statements, we will proceed with our second panel of witnesses.

Today the Committee will hear from witnesses about the challenges that State-sanctioned businesses in the cannabis industry have when attempting to access mainstream financial services.

Under the Controlled Substances Act, marijuana, or cannabis, is currently considered a Schedule 1 drug.

Being categorized as a Schedule 1 drug means that the possession, distribution, or sale of marijuana or other marijuana-derived products is illegal under Federal law, and any proceeds from cannabis-related activities remain subject to U.S. anti-money-laundering laws, such as the Money Laundering Control Act.

In the last several years, many States have used ballot initiatives or referendums that have legalized marijuana in some form, whether for recreational or medical use.

Currently, there are 11 States plus the District of Columbia where it is legal to buy and consume recreational marijuana, and medical marijuana as well, and there are 22 States plus D.C. that have approved medical marijuana—totaling 33 States in all that have some form of legal marijuana.

Senators Gardner and Merkley have introduced bipartisan legislation that attempts to ease some of the difficulties resulting from marijuana's illegal Federal status and more lenient State laws.

I have spoken many times with Senator Gardner on this bill and appreciate the hard work that each Senator has done on this legislation, and I look forward to hearing from each of you very soon.

Our second panel of witnesses will highlight challenges that institutions face in banking different parts of the marijuana industry, how marijuana-related businesses operate and the complications

that they have faced in accessing financial services, and, finally, how the SAFE Banking Act would work.

We will also hear concerns over advocates pushing to legalize marijuana, the effects of the SAFE Banking Act in light of marijuana continuing to be illegal under Federal law, and health harms and addictions that marijuana can lead to.

I look forward to learning more about the SAFE Banking Act and understanding how the safe harbor would work, what the compliance challenges regarding interstate commerce could be, and the challenges presented when banking legacy cash, specifically ensuring that the legacy cash complies with the FinCEN guidance.

Having a conversation about whether banks should be able to provide banking services to entities engaged in federally illegal behavior, but behavior which is legal in some States, brings up an issue and a concern of mine that there has been a big push—where we have seen a big push to choke off legal industries from the banking sector.

I have said this many times and I will say it again, Operation Choke Point was deeply concerning to me because law-abiding businesses were targeted strictly for operating in an industry that some in the Government disfavored. Under fear of retribution, many banks have stopped providing financial services to members of these lawful industries for no reason other than political pressure, which takes the guise of regulatory and enforcement scrutiny.

Operation Choke Point was inappropriate, and Congress needs to pass legislation to prevent future Operation Choke Point Initiatives.

Senator Brown.

OPENING STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman. And, Senators Merkley and Gardner, welcome, and to the second panel also.

Over the past several years, voters and legislatures in nearly every State have, to some degree, legalized or decriminalized cannabis. In my State of Ohio, medical cannabis is legal; dispensaries opened earlier this year.

The legal cannabis industry is one of the fastest growing in the United States. It employs hundreds of thousands of people, many of whom are represented by unions like the United Food & Commercial Workers International Union.

These Americans work hard to support themselves and their families, just like workers in any other industry. They deserve the same rights and protections. Yet in States like Ohio, these workers and businesses find it difficult to access the banking system. That puts them and the Americans they do business with at risk.

No matter how you feel about marijuana itself, we have a duty to look out for the workers who work in this industry and for the communities we represent.

Without access to the banking system, legal cannabis businesses are forced to operate in the shadows, dealing in large amounts of cash. It puts a robbery target on the backs of workers. It creates a safety hazard for communities. It can make it harder to monitor transactions and combat money laundering. Getting paid in cash

means it is difficult to get a credit card, prove your income to get a loan, or even keep your personal bank account.

That can force workers to turn to shady outfits like payday lenders and check-cashing services that charge high fees and interest rates, trap people in a cycle of debt, and make low-income people even poorer.

Companies or workers that have found a bank willing to handle their unique business often pay high fees and are limited to only the most basic financial services.

This problem does not just affect the cannabis industry. It affects people that you might not think of. Plumbers, welders, and electricians service retail locations and other facilities. Lawn care and gardening companies, like Scotts Miracle-Gro in Ohio, sell materials and equipment. All these businesses want to serve their customers and support their workers, but they do not want to lose their longstanding banking relationships in the process.

Community banks and credit unions in Ohio and in other States want to serve the cannabis industries in these communities. In fact, when I recently met with members of the Community Bankers Association of Ohio and the Ohio Bankers League and the Ohio Credit Union League earlier this year, nearly every hand shot up when I asked if this affected them.

But we know serving this industry comes with legal and supervisory risks because of the tension, as the Chairman said, between Federal and State laws. It requires extra layers of due diligence, challenging and costly for banks and credit unions.

Banks and credit unions play a key role in monitoring our financial system for fraud, money laundering, and other illegal activities. It is critical that we maintain our robust anti-money-laundering framework. And access to the banking system is essential to keeping our communities safe and ensuring full participation in the economy.

We cannot continue to ignore this industry and the thousands of workers and communities it affects.

We also know that today's hearing is just one piece of the conversation Congress must have on marijuana policy. People should not be thrown in jail or have their futures jeopardized by a criminal record over nonviolent marijuana offenses.

Let me say that again. People should not be thrown in jail or have their futures jeopardized by a criminal record over nonviolent marijuana offenses.

Everyone should have access to the medicine they need to care for themselves and their families.

I am looking forward to hearing the perspectives of all of our witnesses, Mr. Chairman.

Chairman CRAPO. Thank you, Senator Brown.

As I mentioned previously, we have two witness panels today. On Panel 1, we will receive testimony from the Honorable Senator Cory Gardner, of Colorado, and the Honorable Senator Jeff Merkley, of Oregon.

On Panel 2, we will receive testimony from Ms. Rachel Pross, who is the chief risk officer of Maps Credit Union; Ms. Joanne Sherwood, president and CEO of Citywide Banks; Mr. Garth Van Meter, vice president of Government affairs of Smart Approaches

to Marijuana, or SAM; and Mr. John Lord, CEO and owner of LivWell Enlightened Health.

Senators Gardner and Merkley, you may proceed with your statements.

Senator Gardner.

**STATEMENT OF CORY GARDNER, A U.S. SENATOR FROM THE
STATE OF COLORADO**

Senator GARDNER. Thank you, Mr. Chairman, thank you, Ranking Member Brown, as well as to everyone on the panel for the opportunity to speak before you today.

This is a difficult hearing, difficult topic. I know that. But we were sent here to deal with difficult topics, and I am grateful for the opportunity to talk about this today. It is an important step forward, the first hearing we have had on this issue, as the Federal Government wakes up to the reality that the cannabis issue is not going to go away, and we must have action.

There has been a dramatic shift in Americans' views of cannabis in recent years. Polling shows that about 65 percent of Americans support legalization of marijuana; 93 percent—93 percent—of the American public support medical marijuana.

In fact, majorities of both parties support legalization. In a time when all the talk is about how divided we are in the country, we are remarkably united on this issue.

Given that support, it should not be surprising that the vast majority of States have changed their laws. Forty-seven States now allow some form of cannabis. I recognize that my good friends from the three that have not—Idaho, Nebraska, and South Dakota—are on this Committee. That represents more than 95 percent of our population living in a State with laws allowing some form of cannabis.

Thirty-three States have legalized medical marijuana. Eleven allow regulated adult use.

It is happening in the bluest of blue States, the reddest of red, and—in Colorado—the purplest of purples. It is happening in traditionally progressive States like Oregon, Massachusetts, and California. It is happening in fiercely independent States like Colorado, Alaska, and Maine. It is happening in conservative States like North Dakota and Georgia. It is happening in Rust Belt States like Pennsylvania and Ohio.

Last year alone, Michigan, Missouri, Oklahoma, Utah, and Vermont all adopted or expanded marijuana programs.

In short, the States are leading on this issue. It is the States that are leading on this issue, and the Federal Government has failed to respond. It has closed its eyes and plugged its ears and pretended and hoped that the issue will just go away. But it will not.

This disconnect between Federal and State marijuana laws has become, as the Attorney General has testified, both “intolerable” and “untenable.” The dramatically expanding cannabis industry presents real challenges for our Nation. I have been a skeptic about cannabis legalization. It is no secret that I opposed legalization in Colorado.

I was concerned about the effects of legalization on Colorado's youth and public safety. I was leery of breaking with the Federal

Government. I was uneasy about adding another intoxicant into our culture, and I did not—and still do not—want to encourage my own children to use marijuana.

Several years into legalization in Colorado, I can say, though, that the sky has not fallen. There are challenges to be sure: Colorado has seen an increase in transient populations. There are concerns about traffic safety and hospitalizations, and cannabis has been illegally trafficked into neighboring States.

But according to a recent JAMA Pediatrics report, youth use is about 10 percent lower in legalized States. One strong theory as to why that is the case is that legal dispensaries both force out illegal sellers and enforce age limits. So youth actually have less access to marijuana.

The data on crime are mixed. Marijuana offenses are down. Colorado has also experienced an increase in violent crime, but that is likely driven by an increase in transient populations moving to the State.

At the same time, the State has brought in over \$1 billion in tax revenue. Last year alone, the State received more than \$266 million in marijuana taxes. Millions of those dollars are ending up in Colorado schools.

In short, the sky is not falling in Colorado. Instead, what makes the current situation intolerable and untenable is the disconnect between Federal and State law.

For instance, every single State-legal cannabis transaction in Colorado is federally illegal. That means the dollars involved are the proceeds of an unlawful transaction under the Federal money-laundering statutes. That means that all of the different parts of our economy that connect to any legitimate business—plumbers, electricians, lawyers, accountants, landlords, et cetera—risk becoming Federal criminals for serving a client legal under Colorado law.

That also means that the \$1.5 billion industry a year in Colorado is nearly all cash. Banks will not accept industry money for fear of regulatory action or Federal forfeiture. Keeping those dollars out of banks means we lose the ability to trace where the dollars go. It also means that it is harder to ensure that all taxes are being paid. It makes it easier for criminals in the illicit market to pose as legitimate. And it leaves hundreds of millions of dollars of cash in the State.

For example, the State Department of Revenue has one location that accepts cash. Just one location. So business owners in the western part of the State often have to drive 5 or more hours with tens of thousands of dollars in cash just to pay their taxes.

The cash creates a genuine public safety problem. Stockpiles of cash make the industry a target for thieves. In 2016, a 24-year-old former Marine was tragically shot and killed while on duty as a security guard at a dispensary.

And we are making it hard for these businesses to comply with the law. A few months ago a partner at a major national law firm told me that the firm's bank accounts were going to be shut down because they counsel State-legal cannabis clients.

I have also heard from the city officials in the town of Desert Hot Springs, California. For them, lack of banking means that when they take in a million dollar bond for a cannabis business, it takes

days to count the cash. It takes several employees off their normal work, and it requires extra security guards in their offices.

All of this is just scratching the surface of the financial services problems caused by the Federal/State disconnect. I have not mentioned the problems with research or veterans' access or the EPA refusing to certify pesticides for use on cannabis or the FDA's struggles to police advertising claims or the confusion created for law enforcement or any of the other myriad problems that contribute to this intolerable and untenable situation.

Congress simply must act.

Our failure to act seems to be grounded in two incorrect assumptions. The first is that we can continue prohibition. We cannot. We are a Government of the people, and the people have changed their views. So our laws must change.

The second is that we can come to a national consensus for full-throated legalization in the near future.

We cannot. There are still too many unanswered questions. Many States have legitimate concerns. If those seeking reform insist on swinging for the fences, they will strike out and lose the chance for real improvement.

I believe Senator Merkley recognizes this. I appreciate his efforts to provide real concrete improvement for the financial services industry with the SAFE Banking Act. And I believe Senator Warren recognizes this. I appreciate her efforts to forge a compromise to allow the States to move at their own pace with the STATES Act.

And I believe you, Mr. Chairman, and you, Ranking Member Brown, my friends on the Committee, will see through this hearing that we must act.

Thank you for holding this hearing. Thank you very much for the opportunity to speak with all of you today.

Chairman CRAPO. Thank you, Senator Gardner.

Senator Merkley.

STATEMENT OF JEFF MERKLEY, A U.S. SENATOR FROM THE STATE OF OREGON

Senator MERKLEY. Thank you very much, Mr. Chairman, for holding this hearing.

We have a fundamental conflict regarding States rights and Federal rights. It was back way back in 1996 that Oregon developed a medicinal marijuana program, so that is quite a long time ago. We are talking 23 years.

During that period we have seen that the Nation has changed, and many States have exercised their State rights—their State rights—to address what they felt was in the best interest of their citizens.

But there is the heavy hand of the Federal Government here trying to make life as miserable as possible for citizens across our Nation. So our basic argument is let us stand with States rights, let us stand with the judgment from across the Nation that individuals are doing—the legislators are doing the best they can for their people and not proceed to create a Federal chaos that is good for money laundering and it is good for organized crime and it is good for robbery and it is good for cheating on your taxes and it is good

for cheating on your payroll, but it is bad for citizens. Let us correct this problem in this fundamental relationship.

I am delighted that one of my constituents, Rachel Pross, of Maps Credit Union, is here to testify about the viewpoint from our State. But across the country, businesses operating legally under State laws are faced with banking and safety challenges.

Oregon passed their ballot measure for the use of cannabis, a vote of the people, way back 23 years ago, and in 2014 passed another measure legalizing and regulating adult-use cannabis. However, these cannabis businesses and other related companies that serve the industry—landlords, lawyers, security companies, others—have been operating in all cash without access to bank accounts. I have here 129 stories from Oregon and from across the Nation that I would like to submit for the record, Mr. Chairman.

Chairman CRAPO. Without objection.

Senator MERKLEY. I would like to note that among these stories, one is regarding a certified hemp processing plant. Now, we chose as Congress federally to legalize hemp as an ordinary farm product in last year's farm bill, but, unfortunately, this provision that we have regarding cannabis has been extended in many cases to completely hamper the ability of the hemp agricultural industry, which is exploding across the country, to be able to operate with our normal financial services. And Andrew, an attorney in Portland, Oregon, had two bank accounts closed because of his providing legal services. Do we really want the situation where citizens operating under States rights in this country, operating in the best interests of their citizens as judged by their States, are unable to access attorney services? That is not a provision acceptable under the vision of equal justice under the law.

Forcing legal businesses to operate in all cash is dangerous for our communities. I saw this with my own eyes when I joined an Oregon businessman, Tyson Haworth, on a trip to our State capital in Salem to pay his tax bill. He had his quarterly payment of \$70,000 in a backpack. He turned it over on a table, and it just kind of spread out across the whole table, and some of it fell onto the floor, and it was, like, wow, that is a lot of money to be carrying around in a backpack. We then drove down to the State capital and had to go through three levels of security for him to be able to pay his taxes. As you approached the building, there were police cars and patrol members, and then they would tell you which floor to go to, but not which room. And then you had another set of security, and then you had another set of security in the room where you deposit it, because millions of dollars in cash were flowing in from all corners of the State. This is one of the most absurd things that I have ever witnessed, and it created—there are a lot of costs that reverberate back through the industry that are just really unfair and unacceptable and dangerous.

We are putting safety at risk when companies are conducting themselves legally under State-passed legislation, State rights. So many constituents have reached out to share their stories, and that is why we are delighted that you are holding this hearing for a chance for us to present these stories to the Committee for consideration.

I appreciate the work of the Oregon Retailers of Cannabis Association, the National Cannabis Industry Association, and NORML, the National Organization for the Reform of Marijuana Laws for sharing and putting together these stories that I have submitted for the record.

Across the country more and more States are following the example established in the initial States more than two decades ago, red States, blue States, purple States, whether it is allowing the cultivation of hemp and its derivatives, such as CBD, which was legalized in the 2018 farm bill federally, or taxing and regulating medicinal and adult-use cannabis. In my home State, State and local governments took in over \$80 million in fiscal year 2018 in taxes. That is \$80 million traveling down the roads and highways in duffle bags and backpacks. I have heard from dozens of people who are operating perfectly legal businesses who have been forced to deal entirely in cash or risk having business and personal bank accounts or lines of credit cutoff.

Todd Theiss, owner and president of Red Barn Cannabis, from my home town of Myrtle Creek, Oregon, told my office that not only has he lost business accounts for his dispensaries, but his employees have lost their personal bank accounts and credit cards. Spouses of employees have lost their personal bank accounts. Many employees are fearful that, as a result of these changes, they will lose their credit rating and be unable to buy a house or perhaps even have their mortgages or loans canceled.

So to sum up, thank you for holding this hearing, a chance to present this conversation. There is nothing good about forcing the world to operate on cash. It is an invitation to money laundering. It is an invitation to organized crime. It is an invitation to robbery. It is an invitation to cheat on your taxes or cheat your employees. Let us fix this. Let us fix this. Let us honor the States rights vision of all of these States that have said this makes sense here in our location for our citizens.

Thank you, Mr. Chairman, for providing this forum for this conversation.

Chairman CRAPO. Thank you, Senators. We jointly appreciate the attention and the work that both of you have put into this issue and your being here with us today. You may be excused so we can move to the second panel.

Welcome to our second panel. We appreciate you being here with us to share your knowledge and insights on this issue. I have already introduced each of you, so we will proceed in the order that you were introduced. And, Ms. Pross, you may begin.

I should say I ask all of you to remember to pay attention to the 5-minute rule so that we can have opportunity for questions.

Ms. Pross.

STATEMENT OF RACHEL PROSS, CHIEF RISK OFFICER, MAPS CREDIT UNION, ON BEHALF OF THE CREDIT UNION NATIONAL ASSOCIATION

Ms. PROSS. Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for this opportunity to testify.

My name is Rachel Pross, chief risk officer of Maps Credit Union, a midsized financial cooperative in Salem, Oregon, with about \$770

million in assets and 65,000 member owners. I am testifying on behalf of CUNA, the Credit Union National Association. CUNA represents both State and Federal credit unions and their 115 million members across America.

In the last 5 years, we have seen firsthand the many challenges facing financial institutions and the cannabis sector. Maps takes no position on cannabis legalization, but we acknowledge that Oregon voters have already spoken on the matter.

While cannabis usage is legal in Oregon, it remains illegal in other States. Given that, it may be tempting to believe that the concerns raised by this hearing only affect cannabis businesses and the financial institutions operating in States where cannabis is legal. That belief, however, is wrong. Even financial institutions that choose not to bank the cannabis industry still risk unknowingly serving these businesses. Cannabis businesses do not operate in a vacuum, and indirect connections are hard to avoid.

As a bipartisan group of Senators noted in a 2016 letter to FinCEN, locking lawyers, landlords, plumbers, electricians, security companies, and the like out of the Nation's banking and finance systems serves no one's interests. The United States benefits from a vastly interconnected economy. A company like Walmart, based in Arkansas where recreational use is illegal, could and likely does sell paper or light bulbs to recreational businesses legally operating in California through its website or the 167 retail stores it operates in that State. The same is true for companies like Albertson's, a grocery store chain based in Idaho, where cannabis use is illegal. Yet Albertson's has 126 stores in its neighboring States of Washington, Oregon, Montana, and Nevada, States where cannabis use is legal in some form.

These examples show the problem. Every time an employee of a cannabis business uses his or her paycheck to buy groceries, the local Arkansas or Idaho credit union depositing the proceeds from those sales is directly impacted by the dilemma before this Committee today. Without a Federal law providing explicit legal clearance for financial institutions to provide banking services to cannabis businesses, it is quite likely that many of those businesses will be forced to operate in the underground economy, and many mainstream businesses would end up with no access to the financial services sector. That increases the potential of lost tax revenue and crime. It also deprives law enforcement of vital information. Cannabis banking can be done safely and effectively, and Maps Credit Union offers communities in Oregon a safe solution. After extensive research and risk analysis in 2014, our member-elected volunteer board of directors voted to serve cannabis businesses for two primary reasons: first, to serve the underserved, which speaks to our mission and philosophy as a not-for-profit financial cooperative; and, second, to enhance community safety by removing cash from the streets.

Statistics show that cash-only businesses increase the risk of crime. A 2015 analysis found that in the absence of being banked, one in every two cannabis dispensaries were robbed or burglarized, with the average single theft ranging from \$20,000 to \$50,000. Compare that to Maps. We are on track to remove over \$860 million in cash from the sidewalks of Oregon's communities in just 3

years' time. That is millions of dollars that used to be carried around in duffle bags by legal business owners in our State, creating public safety concerns for the communities we live and work in.

We have established a rigorous screening and compliance protocol and have invested considerably in the robust infrastructure required to appropriately monitor and maintain these accounts. Our compliance program is regularly reviewed by State and Federal regulators. We also obtain an independent external audit of the program annually.

Most importantly, the compliance framework Maps uses to serve cannabis businesses is based on the U.S. Department of the Treasury's FinCEN guidance. In accordance with that guidance, Maps files quarterly Suspicious Activity Reports, or SARs, on every cannabis business account, prioritizing those records to identify any accounts we suspect could be engaged in illegal activity. Today 91.5 percent of our SAR filings are related to cannabis businesses. In addition, Maps files currency transaction reports on cash transactions exceeding \$10,000 in a single business day. Because the cannabis industry is primarily cash-based, this type of data would not otherwise be available if financial institutions like Maps were not transparently serving the industry.

We firmly believe that banking this sector delivers a significant benefit to law enforcement because we are essentially providing a continuous flow of free, highly detailed information on cannabis-related monetary activity in the State.

In conclusion, we need Congress to provide financial institutions that choose to serve State-sanctioned cannabis businesses with a safe harbor. For that reason, credit unions support the bipartisan SAFE Banking Act, and I thank you for this opportunity to testify today.

Chairman CRAPO. Thank you, Ms. Pross.

Ms. Sherwood.

**STATEMENT OF JOANNE SHERWOOD, PRESIDENT AND CEO,
CITYWIDE BANKS, ON BEHALF OF THE AMERICAN BANKERS
ASSOCIATION**

Ms. SHERWOOD. Chairman Crapo, Ranking Member Brown, and Members of the Committee, I am Joanne Sherwood, President and CEO of Citywide Banks, located in Denver, Colorado. I am also Chair of the Colorado Bankers Association.

I appreciate the opportunity to present the views of the American Bankers Association regarding the Federal prohibition preventing banks from handling money related to cannabis businesses.

ABA supports Senate bill 1200, the SAFE Banking Act, and we are grateful to you for your leadership in holding a hearing to discuss this urgent issue. While some lawmakers would prefer to avoid this subject, voters have made it clear that this issue is not going away—with 33 States already having approved cannabis use and 10 States with cannabis-related initiatives on the ballot for 2020.

Despite the majority of States having adopted cannabis regimes of some kind, Federal law prevents banks from banking cannabis businesses. For banks, that means that any person or business that

derives revenue from a cannabis firm—including real estate owners, security firms, utilities, vendors, employees of cannabis businesses, as well as investors—is violating Federal law and consequently could be putting their own access to banking services at risk.

As the legal State cannabis industry continues to grow, the indirect connections to cannabis revenues will also continue to expand. Without congressional action and clearer guidance from banking regulatory agencies, that entire portion of economic activity which operates across all 50 States may be marginalized from the banking system.

Even banks in States like Idaho and Nebraska, where cannabis has not been legalized for any purpose, still face significant compliance challenges that must be addressed.

Cannabis businesses operating in States where it is legal rely on all kinds of suppliers and service providers to support their business operations. For example, the bank may have a customer that is an agribusiness, a law firm, or a payroll company whose business derives some measure of revenue from a cannabis-related business in a neighboring State. As a result, a bank may inadvertently serve businesses and individuals that have connections with and receive funds from legal State cannabis companies in a nearby State. That is true despite the bank's best efforts to identify and prevent cannabis-related funds of any kind from entering the bank.

In addition to the unintended consequences for ancillary businesses, communities with legalized cannabis are also struggling to address the significant challenges to public safety, regulatory compliance, and tax compliance that go hand in hand with cash-reliant businesses. In Denver, cannabis businesses make up less than 1 percent of all local businesses but have accounted for 10 percent of all reported business burglaries from 2012 to 2016.

On the tax side, access to the banking system would increase the efficiency of tax collections and improve the financial transparency of the cannabis industry. Since many cannabis businesses do not have a bank accounts, they are forced to pay their taxes in cash at local IRS offices. Processing such paper-based returns costs the IRS nearly 17 times more compared to an e-file return and sometimes requires local tax offices to invest in additional security measures because of the cash payments.

Allowing cannabis-related businesses access to the regulated banking system would also provide improved Federal and State oversight of their financial activities. Bank accounts are monitored in accordance with existing AML/BSA requirements. This helps law enforcement to identify and address suspicious transactions, an opportunity that is not available in an all-cash environment.

Despite the myriad benefits that would result from banking this fledgling industry, widespread and consistent financial services will not be possible until Congress removes the risk of Controlled Substances Act liability and directs the Federal banking regulators to issue guidance to help banks understand what procedures are acceptable. The bipartisan SAFE Banking Act would help achieve those goals, and we urge the Committee to advance this legislation as soon as possible.

Thank you for your efforts to address this important issue. I am happy to answer any questions.

Chairman CRAPO. Thank you, Ms. Sherwood.
Mr. Van Meter.

**STATEMENT OF GARTH VAN METER, VICE PRESIDENT OF
GOVERNMENT AFFAIRS, SMART APPROACHES TO MARIJUANA**

Mr. VAN METER. Chairman Crapo, Ranking Member Brown, Members of the Committee, thank you for inviting me to testify before you today. My name is Garth Van Meter, and I am the vice president of Government affairs for Smart Approaches to Marijuana, a nonpartisan, nonprofit organization dedicated to a public health approach to addiction and recovery. SAM was founded by former Congressman Patrick Kennedy; current editor of *The Atlantic*, David Frum; and former senior drug policy adviser to three Administrations, Kevin Sabet. SAM believes no one should be locked up or have the rest of their life ruined just because they got caught with a joint, but we also should not create a new addiction-for-profit industry in the model of Big Tobacco.

The fundamental question before us today is whether we want to promote and increase drug use during an addiction crisis or discourage drug use and help people find recovery and healing. By skipping ahead to a technicality over banking rules, the marijuana industry is hoping to gain many of the benefits of Federal legalization without a debate over the public health effects. But make no mistake, a policy change around banking would have massive public health ramifications.

In the past year, ten States rejected major pushes to commercialize recreational marijuana, including New York and New Jersey. The SAFE Banking Act will allow the expansion of an industry pushing new, exponentially more powerful forms of marijuana before any of its health or other societal impacts are fully understood.

Banks currently want to have it both ways: they say they are not taking a position on legalization, but they want to profit from depositing federally illegal proceeds. If they want to benefit from the sales of high-potency pot candies and vapes that are marketed to young demographics through social media influencers, they should be consistent and argue to have those things legalized and advertised. But they are not doing that because they know that their public reputation would take a hit.

We have repeatedly heard that this is about dealing with a cash problem. However, what they are not telling you is that many dispensaries already have cashless options, including credit and debit card payments. If you go to the website, at the bottom of the first page of Appendix A in my testimony, bigpotexposed.com, you can see video footage from dispensary after dispensary confirming they indeed accept cashless payments.

I want to examine two scenarios that could result from the passage of the SAFE Banking Act. The first is the best-case scenario that only legitimate sellers participate. According to former Speaker John Boehner's marijuana investing seminar, there are hundreds of billions of dollars sitting on the sidelines waiting to invest. The SAFE Banking Act could have been drafted to narrowly address point-of-sale transactions. Instead, the bill is written specifi-

cally to allow those hundreds of billions of dollars to invest. Does anyone think that public health is going to be the driving force? Already in Canada, the CEO of a major marijuana corporation was ousted for a single quarter of poor sales, and Altria, formerly Philip Morris, has made a multibillion-dollar investment into the marijuana industry.

It is also important that we not deal with this question in the abstract. In particular, I would refer you to the first page of Appendix A, where you can see a marijuana concentrate called “shatter” from Acreage Holdings, which is former Speaker John Boehner’s new gig. Notice the name of the marijuana strain: “Thin Mint Girl Scout Cookies”. Let that sink in for a second. And those are the responsible operators in the industry. I could show you plenty of examples from irresponsible operators that are much, much worse. So that is the best-case scenario if everything goes according to plan.

But there is a much darker possibility, and it does not require a stretch of the imagination because it is already happening. International cartels have infiltrated legalized States and have used the cover of legalization to conduct massive grow operations, often in upscale, suburban neighborhoods. The SAFE Banking Act provides a scalable new avenue for these cartels to infiltrate the banking system in a much more systematic way.

In Appendix B, you will find a letter from former DEA Administrators and drug czars who describe a threat that parallels the multibillion-dollar Black Market Peso Exchange and testimony from Colorado law enforcement that lays out an example of how this would work. I would be happy to go into more detail of these threats during witness questions.

There still is an opportunity for the other witnesses in the banking industry at this table to wash their hands of the marijuana industry and say, “We want no part of this coming nightmare.” But if they proceed, at least it will be with the full knowledge of what they are investing in: preying on the vulnerable through the marketing of high-potency and kid-friendly products, and producing new cases of substance use disorder and serious mental illness. It took us over 100 years to reverse the public health impacts of the tobacco industry, who continually cast doubt on public health advocates with industry-funded bunk science. We have an opportunity today not to repeat those mistakes.

Thank you.

Chairman CRAPO. Thank you, Mr. Van Meter.

Mr. Lord.

STATEMENT OF JOHN LORD, CEO AND OWNER, LIVWELL ENLIGHTENED HEALTH

Mr. LORD. Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for providing me the opportunity to share my perspective on the issue of banking in the cannabis industry. My name is John Lord, and I am the owner and CEO of LivWell Enlightened Health, a vertically integrated cultivator, manufacturer, and retailer of cannabis products under the laws of Colorado. LivWell is one of the largest cannabis companies in Colorado, with more than 600 employees and approximately \$100 million in annual revenue. We manage 15 retail stores in Colorado

with each averaging close to \$20,000 a day in sales and collectively served 4,500 people per day. Yet because of the current status of the law, we are forced to operate as an all-cash business.

I am here today representing not only LivWell but the Cannabis Trade Federation, for which I am currently Chair. CTF is a national coalition of cannabis-related businesses dedicated to professionalizing, diversifying, and unifying the cannabis business community.

Before launching LivWell, I had a more traditional business career. I began as a dairy farmer in New Zealand and eventually moved into importation, manufacturing, and wholesaling child safety seats and baby products. As the company grew, I established operations in the U.S., became a citizen in 2007, and sold my company in 2008. I was looking for my next venture just as the medical cannabis industry got off the ground in Colorado, and I decided to apply my manufacturing and compliance experience to this new field.

In 2009, we began a small cultivation space and dispensary, acting in accordance with the medical marijuana provisions of the Colorado Constitution. After the voters of Colorado legalized cannabis for adults in 2012, our facilities became dual-use in 2014.

But our evolution as a company was not always smooth due to the dichotomy between State and Federal laws. Banks and credit unions have been reluctant to serve cannabis businesses or have refused to do so altogether. Some banks were discouraged or prevented from doing so by their regulators. As a result, we have frequently struggled to obtain and maintain bank accounts. At one point, I rented out a former bank to use as a vault to store cash. Another time, I had no choice but to walk into the IRS in Denver with more than \$3 million in cash in order to pay Federal taxes.

Imagine running a State with hundreds of employees and having to make all payments, including payroll, in cash. It is difficult and, frankly, it is dangerous. This is something thousands of State-legal cannabis companies are struggling with every day.

While our company now has a more stable banking relationship, we are still far too dependent on cash. Since credit card companies refuse to process cannabis transactions, customers are forced to bring cash into our stores. We must hold the cash until it is deposited into our accounts. These are significant public and employee safety risks that could be avoided if cannabis businesses had normal banking relationship.

I note that the news about cannabis banking is not all bad. Notwithstanding the fact that the Department of Justice rescinded several memoranda regarding cannabis enforcement in 2018, FinCEN has maintained its 2014 guidance to financial institutions serving cannabis businesses. Of course, from a law enforcement perspective, this makes eminent sense as it is always easier for law enforcement to detect illicit activity if proceeds are subject to the transparency of the regulated banking system.

Due to the costs associated with complying with FinCEN guidance, banks services for cannabis businesses are not cheap. Our company pays in excess of \$3,000 per month just to have an account. The current situation is especially challenging for small businesses. While we are able to absorb the additional costs associ-

ated with cash management and exorbitant bank fees, many mom-and-pop shops are not. It should be noted that these small businesses are also being squeezed by Section 280E of the Internal Revenue Code, which prevents cannabis companies from deducting standard business expenses when they calculate their taxes. In fact, LivWell's effective tax rate is currently 80 percent. If there is any hope of helping small businesses survive and thrive, we must fix the banking situation, amend 280E so that cannabis businesses are taxed like any other business.

Thank you again for inviting me here today, and I look forward to answering your questions.

Chairman CRAPO. Thank you, Mr. Lord.

I wanted to start out my questioning with Ms. Pross and Ms. Sherwood. The SAFE Banking Act provides a safe harbor from Federal banking regulators taking certain actions against depository institutions providing services to the marijuana industry. There are many different State laws on marijuana, as has been indicated by our witnesses today. The question that I have relates to how under the SAFE Banking Act would a safe harbor work for a bank providing financial services to marijuana-related businesses when the banking is across State lines, when you are dealing with different laws in different jurisdictions. How does this safe harbor work?

Ms. PROSS. Thank you, Senator. In the State of Oregon, Maps Credit Union, we actually only serve the State of Oregon. As a credit union, we are limited to a geographic charter, so we actually are not dealing outside of the State lines of the State of Oregon.

Chairman CRAPO. All right. Ms. Sherwood.

Ms. SHERWOOD. We have the same situation, Chairman, so we are only local within the State of Colorado. We would not deal with outside entities.

Chairman CRAPO. Mr. Van Meter and Mr. Lord, are you aware of situations where there is banking across State lines, or would be if we were to engage in this legislation?

Mr. LORD. Currently, no, sir. There would be, of course, excellent opportunity to do so should the regulations permit.

Mr. VAN METER. There are now a large number of dispensary chains that are multi-State operators, so I imagine that just by virtue of operating in multiple States, they would be transferring money between States.

Chairman CRAPO. All right. Let me move on to another question. Mr. Van Meter, you raised a number of concerns about the abuse and impacts of the abuse of marijuana that could occur if we have, I guess what you are saying, an essentially unregulated system. So are you saying that the banking of legitimate marijuana should be prohibited? Or are you saying that there should be some kind of regulatory system put into place to assure that we do not have abusive, high-intensive products and inappropriate marketing to the vulnerable?

Mr. VAN METER. I am saying we should have that debate before we address the banking question, that to address banking and the institutional investors entering the banking system to invest in marijuana firms is premature before we have had a debate over whether or how to regulate the addictive potential, the abuse potential of high-potency marijuana.

Chairman CRAPO. Could you give me just a couple further—a little more explanation of the issue that you are talking about? You indicated that, for example, the high-intensity products and the damage that this could and is in some cases having.

Mr. VAN METER. Yes, sir. So if you look at some of the examples that I provided in the appendix, you will notice that it is the concentrates that are most heavily marketed through their social media accounts, and these products are tremendously high potency. When most people think about marijuana, they think about 1 to 3 percent Woodstock weed in terms of the potency of the amount of THC in it. Today's marijuana, the concentrates go up to 95 percent, and it is a very educational experience if you watch videos of people doing these on YouTube. The most common effect is that someone coughs until they vomit, and then they pass out. It is very disturbing to watch.

So, you know, these are tremendously damaging products. They have been shown through the few scientific studies that have been done on them to have very damaging effects on the brain. And these are the products that the marijuana industry is very much trying to get people to graduate to. There are all sorts of promotions to get people to try marijuana concentrates.

Chairman CRAPO. All right. Thank you.

Mr. Lord, and, frankly, our credit union and banking representatives could respond to this as well, is the 2014 FinCEN guidance helpful and effective? And would you support making the FinCEN guidance statutorily required for all financial institutions in this arena?

Mr. LORD. All Federal guidance is welcome, and we look forward to being part of this regulation continuing to evolve.

Chairman CRAPO. All right. Ms. Pross and Ms. Sherwood.

Ms. PROSS. Thank you, Mr. Chairman. Not only is the FinCEN guidance very helpful to Maps Credit Union as we serve this industry, but it is vital. It provides the compliance framework, and it is frankly the rule book that we abide by in order to do this safely and effectively and transparently.

Chairman CRAPO. Ms. Sherwood.

Ms. SHERWOOD. I agree. In addition, I think it is critical that the banking regulators clearly come out with guidance that we are to follow as organizations so that we have clear expectations of how to operate.

Chairman CRAPO. All right. Thank you.

Senator Brown.

Senator BROWN. Thanks, Chairman.

Mr. Lord, from my opening statement you can—you might suggest that in this whole debate I am most interested in the workers that work for you and others, union and nonunion workers. A couple of questions. When you first started your business and had to operate in all cash without a bank account, what safety risk did this pose to your workers?

Mr. LORD. Senator Brown, incredible safety risks involved in just that volume of cash. Currently we actually have our employees through a company called Delt Services, which is not directly involved with banking, and then we lease those employees to our cannabis-touching company in order to provide one layer of protec-

tion back to those employees. So today we actually can process, but we do it through a two-step process. Prior to that, just large amounts of cash is dangerous.

Senator BROWN. Is your operation, the operation you have just mentioned, union or nonunion?

Mr. LORD. Nonunion, sir.

Senator BROWN. I mentioned in my opening statement United Food & Commercial Workers are involved or organized in some parts of this industry. Do you see your industry as potentially an industry where a lot of the workers unionize?

Mr. LORD. At this stage, not so much. In order to protect our employees, we provide a 401(k) plan, full company-paid health care, and above average wages. And it has been a very robust industry for employees, and we are very proud of our past.

Senator BROWN. Have there been efforts to organize a union at your operation?

Mr. LORD. Yes, there has been.

Senator BROWN. OK. And you have opposed it?

Mr. LORD. I have not opposed it. Our employees to date have rejected it.

Senator BROWN. You have not weighed in at all?

Mr. LORD. No, sir.

Senator BROWN. Management has not weighed in at all?

Mr. LORD. No, sir.

Senator BROWN. OK. Do you have an obligation, you and your industry, to hire people who have served time in prison for possession of marijuana?

Mr. LORD. We would look forward to that situation. Recently Mayor Hancock of Denver has provided an expungement program for felonies, which would be very necessary because we cannot under State regulation employ a felon.

Senator BROWN. You cannot employ a felon, someone who has committed a crime, even after they have done their time, under State law?

Mr. LORD. Yes, sir.

Senator BROWN. As your industry has lobbied State legislatures around the country, is that one of the things you are lobbying for, to get that law changed?

Mr. LORD. Definitely, sir.

Senator BROWN. You have affirmatively lobbied to get that changed?

Mr. LORD. Yes, sir.

Senator BROWN. OK. Thank you for that.

Ms. Pross, how is regulator guidance, for example, from FinCEN enabled you to provide financial services to the cannabis industry?

Ms. PROSS. Sure. The FinCEN guidance is a rule book that we follow in serving these businesses. It provides us clarity on when to file Suspicious Activity Reports, with what frequency, and how to prioritize those Suspicious Activity Reports to ensure that we are flagging activity that could be beneficial to law enforcement, activity that could indicate financial crime.

Senator BROWN. All right. Thank you.

Mr. Van Meter, I appreciated the Chairman's questions about this. I want to touch in a related way but a little more. I under-

stand the health concerns you raise in your testimony. It is persuasive and convincing, I think, to a lot of people. Would it be better to regulate this industry and include in the traditional financial system in order to address your concerns?

Mr. VAN METER. Senator, that has not been the evidence or the experience in States that have legalized so far. There has been a lot of cross-pollination between the regulators going to work for the industry and the industry going to become regulators. And so it is very much a circumstance where the fox is guarding the henhouse. I think it might be a different set of circumstances if marijuana were placed under the Tobacco Control Act with the same ability to restrict potency, to ban concentrates, to ban all of these kid-friendly edibles. But that has not happened in any legalized State so far. Every effort to put a restriction on potency has been defeated by the marijuana industry. They have actively lobbied against that.

Senator BROWN. We, of course, have never seen regulators go work for the industry or people from the industry come and work for the Trump administration either, so I can understand that you might possibly think that.

Mr. Lord, would you answer the same question I asked Mr. Van Meter?

Mr. LORD. Yes. Could you please repeat the question, sir?

Senator BROWN. Would it be better to regulate the industry to address the health concerns that I think Mr. Van Meter pretty persuasively discussed, would it better for the industry—would it be better to regulate the industry in the traditional financial services system?

Mr. LORD. We are looking forward to Federal regulation. We believe at the moment we have robust State regulation, but those State regulations vary from State to State dramatically, and we have a lot of safeguards put into those State regulations, but Federal regulation is what we look forward to.

Senator BROWN. What is to stop the—and this is my last question. I apologize, Mr. Chairman. What is to stop what is happened in financial services, what has happened in Wall Street, where Wall Street basically owns this institution and the regulators certainly in the Trump administration, what is to stop the regulatory capture in marijuana the same way we have seen it in banking?

Mr. LORD. I believe that some of these regulations are yet to be fleshed out. I believe that we are asking to be regulated, and these are debates that need to happen with regard to the regulation. Here today we are asking for the basics of banking, the ability to put our money in a bank, perhaps take out SBA loans, et cetera, which, again, will help social equity and minority equity in getting started in these businesses.

Currently, unless you are of high net worth or have access to high-net-worth individuals is the only way to finance these businesses. So this would help allow that.

Senator BROWN. Thank you.

Thanks, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator MENENDEZ.

Senator MENENDEZ. Thank you, Mr. Chairman.

The topics of today's hearing are of particular importance to me as New Jersey is in the midst of a large medical marijuana expansion, and I have concerns that cannabis and cannabis-related businesses will continue to find themselves shut out of the financial and insurance systems.

For example, if an insurance company is required to offer coverage to a cannabis business under State law, the insurer faces a serious and fundamental conflict between State and Federal laws. That is why yesterday I introduced the CLAIM Act with Senators Paul, Merkley, and Cramer to end the confusion and legal exposure that arises from the conflict between State and Federal insurance laws.

And, Mr. Chairman, I would like to introduce—I think you are the Acting Chairman—a letter of support from eight insurance trades into the record.

Senator BROWN [presiding]. You can do anything you want with me as Acting Chairman.

[Laughter.]

Senator MENENDEZ. Then I would like to ask unanimous consent that the CLAIM Act be—no.

[Laughter.]

Senator MENENDEZ. Thank you, Mr. Chairman.

Ms. Pross and Ms. Sherwood, when a local business obtains a commercial loan from a financial institution, is it common practice for the borrower to be required to obtain certain types of insurance?

Ms. SHERWOOD. Yes, Senator, and it depends on what type of business and what type of loan. But fire and casualty, hazard, business continuity, environmental, all those are requirements, and we are unable to close a loan without those.

Senator MENENDEZ. Is that your experience as well, Ms. Pross.

Ms. PROSS. Yes, it is.

Senator MENENDEZ. And what happens when they are unable to get insurance coverage?

Ms. SHERWOOD. We are technically supposed to force-place, but if that is not available in the marketplace, we would have to call a loan and ask them to pay us off.

Ms. PROSS. So at Maps, insurance is typically required on all commercial loans because of the loan collateral. So if the applicant could not obtain insurance, then the loan request would be denied. If it was a loan that had already been funded for a commercial entity, the borrowers would be considered in default if they were unable to secure insurance coverage.

Senator MENENDEZ. So either you cannot get a loan because you cannot get the insurance, or if you have proceeded in some way and your business has morphed into this area and you need the insurance and cannot provide it, you are in default.

Ms. PROSS. Correct.

Ms. SHERWOOD. Correct.

Senator MENENDEZ. So would you agree that providing legal clarity around the provision of insurance at the Federal level would help banks and businesses in the legal cannabis industry?

Ms. PROSS. I think that makes sense, yes.

Ms. SHERWOOD. Yes, Senator.

Senator MENENDEZ. OK. Thank you.

Mr. Lord, can you explain to the Committee some of the issues you have run into in trying to obtain affordable insurance for your business and employees?

Mr. LORD. Yes, Senator. Affordable——

Senator MENENDEZ. You have a great South Jersey accent, too, I must say.

[Laughter.]

Mr. LORD. Slightly further south, but thank you, sir.

With regard to affordable insurance, I think that is the key word that we need to take out. We do have insurance—there are about two companies that we are aware of that are insuring, but just to give an example, offices and directors insurance, the maximum that we could get was \$2 million in protection, and that costs \$100,000 a year per officer and had a deductible of \$1 million. So, effectively, we got \$1 million insurance for \$100,000 per officer. So extremely expensive insurance.

With regard to regular business interruption insurance, things like that, the insurance is there but, again, incredibly low dollar values, so, you know, nothing that is really going to help the business survive perhaps some sort of business interruption and high rates.

Senator MENENDEZ. So would a more stable and affordable insurance market help you reduce your costs, expand your business, and create more competition and more competitiveness than black market marijuana?

Mr. LORD. Most definitely, Senator.

Senator MENENDEZ. Are you able to fully insure all the dispensaries and ancillary businesses in your group?

Mr. LORD. No, we are not. We struggle with this periodically, and as I said, a lot of the volume of insurance that we can get or the dollar value of the insurance is not where it should be.

Senator MENENDEZ. Let me finally go back to Ms. Pross and Ms. Sherwood. Legal marijuana businesses do not operate in a vacuum. They usually need to rent property from someone. They might also need a plumber, an electrician, or even an exterminator to successfully operate the business. These ancillary businesses I think are also caught up in the confusion around cannabis banking.

Are ancillary businesses at risk of losing their bank account if they work with a legal cannabis business?

Ms. SHERWOOD. They are, Senator, and it depends to the degree with which they participate. We are unable to lend against any property that has a cannabis-related industry in it.

Senator MENENDEZ. Is that your experience, Ms. Pross?

Ms. PROSS. Yes, it is. We do offer ancillary services at Maps Credit Union, but our experience with these businesses is that they have had tremendous difficulty accessing banking services.

Senator MENENDEZ. So let me close by saying a small business would often have to choose between accepting a new client and losing their bank account or losing the client and keeping their bank account?

Ms. PROSS. That is true.

Ms. SHERWOOD. That is correct.

Senator MENENDEZ. Thank you, Mr. Chairman.

Senator BROWN. Senator Tester.

Senator TESTER. Thank you, Ranking Member Brown, and I thank all the folks who testified today.

So from your testimony—I want to direct this to Ms. Pross and Ms. Sherwood. From your testimony, Ms. Pross, your credit union does bank the industry?

Ms. PROSS. That is correct.

Senator TESTER. And yours does not, right?

Ms. SHERWOOD. That is correct.

Senator TESTER. And so tell me, Ms. Pross, you talked about, you know, the transaction reports and the Suspicious Activity Reports. Is that what your regulator is requiring you to do to be able to bank them? Or tell me why you have a market advantage over the bank. I guess the question is: How are you doing this without the regulators coming in and shutting you down?

Ms. PROSS. Sure. Every financial institution has to go through its own risk analysis, how much legal risk and reputation risk they are willing to take to start a new product line. And at Maps, our board of directors chose to take this risk——

Senator TESTER. And that is OK with the regulators?

Ms. PROSS. It is OK with our regulators.

Senator TESTER. So that is good.

Ms. Sherwood, why aren't you doing it?

Ms. SHERWOOD. The fundamental issue is this is illegal from a Federal perspective, and we——

Senator TESTER. And your regulator is a Federal——

Ms. SHERWOOD. Yeah, and we are not willing to take the reputational risk or the exposure.

Senator TESTER. OK. And CUNA is also Federal too, though, right?

Ms. PROSS. At Maps Credit Union, we are State regulated and federally insured by the NCUA.

Senator TESTER. I got you. OK. All right. So the example that Senator Menendez gave about everybody that is associated with lending money or doing business with a cannabis institution is at risk of losing their bank account. Right?

Ms. SHERWOOD. That is correct. If we become aware that they are servicing the cannabis industry, we are required to do an in-depth investigation to determine what percentage of their income is derived——

Senator TESTER. And who would make that determination of awareness?

Ms. SHERWOOD. That would be our bank secrecy department, and then we will look into the ownership and the owners of the company to see if they are then related to cannabis businesses.

Senator TESTER. I got you. So, Ms. Sherwood, does the SAFE Banking Act solve all the cannabis banking problems? I am not talking about from a financial perspective. I am talking about it from a regulatory perspective.

Ms. SHERWOOD. I think it is a start, but unless the banking regulators clearly define the expectations and operating procedures going forward, it will not solve anything.

Senator TESTER. Does the ABA or CUNA have any language that would help solve this problem that they could put forward in a bill form?

Ms. SHERWOOD. At this time we do not, but working with the regulators, I am sure we can come up with something.

Ms. PROSS. CUNA strongly supports the SAFE Banking Act, and we feel that the FinCEN guidance for banking marijuana-related businesses is adequate to follow in order to serve this industry.

Senator TESTER. Let me ask you, not what this hearing was about, but hemp. Can you bank hemp, Ms. Sherwood?

Ms. SHERWOOD. Currently, no, until the regulatory guidance comes out, we are unable to operate—

Senator TESTER. So none of the regulators have come out with any guidance on hemp?

Ms. SHERWOOD. No, sir.

Senator TESTER. How about you, Ms. Pross?

Ms. PROSS. We are serving the hemp industry.

Senator TESTER. Same as the cannabis. It is interesting because, quite frankly, we have talked to the regulators, and they tell us that that regulation clarity is due to come out since we passed the last farm bill and took it off the schedule.

I have just got one question because I am just curious, Mr. Lord. How much do you pay out a year in security?

Mr. LORD. Oh, we used to have—actually several hundred thousands dollars a year would be the answer to that. We have brought it in-house recently. We employ veterans largely for internal security, and, you know, we have probably 20 good-paying jobs.

Senator TESTER. Are they armed security?

Mr. LORD. Up until recently, yes. But just recently we have removed the arms.

Senator TESTER. OK. All right. Well, thank you all for being here. I think this is an issue that, if Congress can do anything about, we should do it.

By the way, Mr. Van Meter, your testimony is spot on. I tend to fall in the same camp as Senator Gardner does on this and that the people speak and we are representatives of the people, so we should move forward—not that I am any big supporter of it because I am not, but nonetheless, we are representatives of the people.

Thank you all very much.

Chairman CRAPO [presiding]. Senator Warner.

Senator WARNER. Thank you, Mr. Chairman.

I do believe we need some clarity here, and I want to go back to the FinCEN regulations, which I know, Ms. Pross, you indicated that your credit union has tried to follow very closely the FinCEN guidance and particularly around SAR filings.

One of the things I have heard from financial institutions in my State is that there is some lack of clarity around the term “marijuana-related businesses,” and so that creates a level of uncertainty. Can you talk about some of the shortcomings in the FinCEN guidance, Ms. Pross?

Ms. PROSS. Our experience with the FinCEN guidance has been positive. It is a definite clear line and rule book for us to follow. We do not believe that it is very ambiguous. We actually—

Senator WARNER. So the notion—you feel there is clarity around the term “marijuana-related businesses”?

Ms. PROSS. Yes, we define marijuana-related businesses or cannabis businesses as plant-touching entities, and then there are ancillary businesses that are not touching the plant but are serving the cannabis industry.

Senator WARNER. Ms. Sherwood, how do you feel about the FinCEN guidance?

Ms. SHERWOOD. The crux of it is that it is still illegal, so regardless of the guidance, making it legal or making the SAFE Act valid would then guide us to get more regulations, more clear guidance from the banking regulators. So in the absence of clear delineation from the banking regulators, we do not feel it is sufficient.

Senator WARNER. And that is why I think so many of us here think SAFE is the right step forward to give you all the guidance and protection that I think you need as this becomes more legal in more and more States.

One of the things, Mr. Lord, I have heard concerns from both farmers and bankers is the difficulty in keeping the THC levels in check, particularly as we go over toward hemp. I understand crops cannot exceed the 0.3 percent THC level. According to some of my bankers, they are literally trying to go into the field and do testing on their own, which seems a little crazy.

So can you as a grower comment on that challenge of how you maintain appropriate THC levels on an ongoing basis since during the growing process they may—there seems to be some fluctuation?

Mr. LORD. Certainly. What I am commenting on is slightly out of our lane. As a THC grower, we cannot in Colorado grow hemp, so they are a different animal. But with regard—I can speak regarding hemp. The amount of sunshine or wet weather, things like that, actually affect, just as they do sugars perhaps in many other crops, affect THC levels.

Senator WARNER. And so, consequently, depending on where you may be in the growing cycle, you could get a different reading, which seems a little strange. Do you think that financial institutions should be able to rely on State licensing processes for the purposes of whether you meet or do not meet those THC levels?

Mr. LORD. Yes. You know, the crops have to be tested pretty much immediately at certain points, and that handled on a State basis is quite necessary.

Senator WARNER. Well, one of the things—I want to associate with Ranking Member Brown’s comments. I really think if this is a direction we are going to head, we need to make sure that we have good access for small businesses, particularly minority- and women-owned small businesses. Some of those communities have been disproportionately hurt, and clearly the current rules within Section 280E of the IRS really makes it very difficult for folks without access to a large amount of capital to get a fair shot to get into this business.

Can you speak a little bit how these IRS current rulings really inhibit and prohibit small businesses, particularly minority-owned small businesses, from getting access to this marketplace?

Mr. LORD. Yes, I completely agree with your comments. It makes it incredibly difficult without access to, as I said earlier, high-net-

worth individuals, et cetera, because that is really the only access for capital.

With regard to somebody starting off in this industry at the moment without access to bank loans or SBA loans or, you know, any sort of economic development area or anything like that, it is incredibly difficult, in fact, I think almost impossible for, you know, minorities or anybody actually coming from just even a very regular situation to get a toehold in this industry.

Senator WARNER. So I think, you know, if we are going to move forward in this area, I think we need to give the kind of legal clarity that I think the SAFE Act would provide, and I look forward to working to make that happen.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator SCHATZ.

Senator SCHATZ. Thank you, Mr. Chairman. Thank you all for being here.

I want to start with Ms. Pross, and I know in your testimony you talked about the risks related to operating a business solely with cash. I would like you to flesh that out a little bit in terms of possible physical risk and the difficulty in complying with other Federal laws, especially anti-money laundering and preventing criminal financing.

Ms. PROSS. Thank you. Just to clarify, are you talking about the risks that the cannabis entities are facing with that much cash on hand or the credit union?

Senator SCHATZ. Both.

Ms. PROSS. Both, OK. Thank you.

So we have talked to numerous members who have opened accounts at Maps who have described that they have been storing cash in shoe boxes, empty mattresses. There are unscrupulous third-party players involved in this who are selling cash vaulting type of services, and those are not true cash vaults. They are, in fact, storage units, just basic storage units full of cash that are earmarked for various businesses. It is not safe. We had a cannabis business that was robbed on a Sunday and opened an account with us the following week. So it is a major issue, a safety issue. At the credit union, we make sure that that cash is not stored in our facilities. We do not want to put our staff at risk that way.

And one of the things that we are most proud of is our collaboration with law enforcement. I have had numerous law enforcement officers comment that us banking this industry is providing them data that they would not otherwise get if the industry were unbanked. And I had one investigator in particular who said, after we had done it a few years, he said, "The SAR filings that Maps is doing is actually helping us see what aboveboard cannabis-related monetary activity looks like, and it is actually helping us hone in on the bad guys." And he just was profusely thanking us for banking this industry and making his life as an investigator easier.

Senator SCHATZ. I think that is just a critical point, that this lack of clarity between Federal and State law is driving this industry into an element that it does not want to operate in, and it has to interact with some shady characters by necessity because it is

not permitted to bank properly. And I would just encourage all the Republicans on the other side of this dais to acknowledge that this is a real issue.

There is a real debate about the health benefits and risks around marijuana, and this is interestingly an issue that unites both proponents and opponents of legalization because everybody supports research and, quite reasonably, people who are opposed to legalization and people who are in favor of legalization believe that the research will bear out their views.

I have a bipartisan bill with Senators Grassley, Feinstein, Alexander, and others to break down the obstacles to research on marijuana, and we have actually worked closely with SAM on developing this legislation. But I am concerned about the lack of access to financial services.

So, Ms. Sherwood and Mr. Lord, has the lack of banking services undermined the ability for research institutions, universities, and hospitals to conduct research? And I will start with Mr. Lord.

Mr. LORD. Thank you, Senator, and most definitely, that and having any form of Federal regulation around cannabis has huge implications when it comes to research. FDA will not recognize any research even if that was performed currently because it is an illegal substance federally. And the same goes for many universities conducting research are unable to for fear of their Federal funding being removed. So it puts official research in jeopardy.

Mr. VAN METER. Senator, could I add something to that quickly?

Senator SCHATZ. Sure.

Mr. VAN METER. So if the marijuana industry was concerned about research, then I do not think that they would be selling some of these extremely high potency—

Senator SCHATZ. Well, hang on. I am concerned about research, so I am going to allow you to answer the question, but I am not going to allow you to take a potshot at the people that you are testifying with. If you want to answer the question about the extent to which the lack of clarity in Federal law prevents us from doing research, I will allow it. But I am not going to allow you to just give your stump speech.

Mr. VAN METER. Sure. No, and that is a fair point, that there are barriers to research, and as you mentioned, SAM supports reducing those barriers and supports your efforts toward—to that extent.

Senator SCHATZ. Thank you.

Ms. Sherwood.

Ms. SHERWOOD. Senator, I was just made aware Friday of that very issue where we do have Colorado universities who would really benefit from researching this industry and the effects of it. Because they are taking Federal grants and Federal subsidies, they are unable to go forward on those programs.

Senator SCHATZ. Thank you.

Chairman CRAPO. Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you. First of all, let me just say thank you to the Chairman and Ranking Member for holding this hearing. I know this is something that many of us have asked for. I so appreciate it. It is such an important issue, as we can see, and particularly for the State of Nevada.

Let me just say this: As a former Attorney General, I so appreciate—I think there were 38 AGs that signed a letter in support of the SAFE Banking Act. This was an issue that was important for me as the Attorney General of the State of Nevada, and here is why—and, Mr. Van Meter, I agree with you. I think there are concerns about the concentration, the public safety health risks, but I also know the people of the State of Nevada voted, a majority, to go down this path, and I respect that.

So as a former Attorney General, and in conjunction with my colleagues, I do think there is a concern. Because we do not have a financial system, these businesses are forced to operate on a cash basis, and this is what the AGs said in their letter. The resulting gray market makes it more difficult to track revenues for taxation and regulatory compliance purposes, contributes to a public safety threat as cash-intensive businesses are often targets for criminal activity, and prevents proper tracking of billions in finances across the Nation.

I do think that we need to address this issue for those very reasons, and we can still study the health implications and address what you have talked about when it comes to the concentrations and how they are marketing some of the marijuana.

But let me jump back to this idea from a public safety perspective, and, Ms. Pross, in your testimony before the House, you highlighted that one in every two cannabis dispensaries were robbed or burglarized, with the average thief walking away with anywhere from \$20,000 to \$50,000 in a single theft. Outside of burglary and theft, could you discuss what other risks are associated with an unbanked industry that in my State generated more than \$600 million in revenue last year?

Ms. PROSS. Sure. As a Bank Secrecy Act expert, my concern is financial activity going outside of State lines, seeing money laundering, financial crime, the financing of revenue for cartels and gangs. So those are all concerns that we have. And having the money going through a legitimate transparent financial institution relationship allows us to hone in on activity that could indicate financial crime that is promptly reported, and it also helps us ensure that the activity going through our credit union is aboveboard.

Senator CORTEZ MASTO. Thank you. And we have been talking about not only the banking system but the legitimate medical marijuana businesses, but we have not talked about the ancillary businesses. As you know, there are so many other companies that are doing business, legitimate businesses, with these establishments from the security companies. We have landlords, we have accountants, electricians, garden stores. And they are also affected by a lack of a financial system to engage in. Isn't that correct?

Ms. PROSS. Yes, it is.

Senator CORTEZ MASTO. And when you talk about your work with FinCEN—and I so appreciate it because I work closely with FinCEN as well. In fact, my husband worked at FinCEN at one point in time. I understand that you actually—under the FinCEN guidance, banks are required to file three separate types of Suspicious Activity Reports for cannabis businesses. Is that true for any other small businesses, three types?

Ms. PROSS. No, it is not. It is specific to cannabis businesses.

Senator CORTEZ MASTO. And can you address that? Why is that?

Ms. PROSS. There are three types of SARs. The first is a marijuana limited, and that is just saying by nature of the Federal status of cannabis, we would file a Suspicious Activity Report because we are banking the proceeds of a federally illegal industry. So that has to be filed every 90 days, and technically it is 120 because you have an additional 30 days to file after that 90-day period.

Then there is a marijuana priority, and that is if we read something in one of our quarterly investigations that there is something perhaps amiss or if we see activity that we are unable to explain, we would file a marijuana priority. And that raises a red flag for FinCEN to take a closer look at this business.

And, finally, if we determine that we need to close an account, either for behavior that indicates financial crime or for noncompliance with our compliance program, we would file a marijuana termination SAR, and that notifies FinCEN something is wrong with this business, and we are closing this account for a reason.

Senator CORTEZ MASTO. And you are for the first time giving law enforcement the data they need to go after the bad actors. Isn't that correct?

Ms. PROSS. That is correct, and we have been—we have received so much praise from law enforcement officers we have interacted with.

Senator CORTEZ MASTO. And let me open this up to both Ms. Pross and Ms. Sherwood. According to a State of Nevada audit last year, around \$500,000 in tax revenue was lost due to discrepancies between seed sale tracking and tax returns filed with the State Department of Taxation. Does the current FinCEN guidance allow financial institutions to provide information to State tax agencies when performing audits? Do you know?

Ms. PROSS. That is a great question. I would like to look into that and get back to you in writing on that specific issue.

Ms. SHERWOOD. I cannot answer that, but we can get back to you.

Senator CORTEZ MASTO. Thank you. I think that is a concern for—as part of this process, if we are to open up the door to financial institutions, we need to be tracking also for purposes that we have just heard today where is the money going. Is there lost money? How are we tracking this to make sure these are legitimate businesses?

I know my time is up. Thank you.

Chairman CRAPO. Thank you.

Senator Smith.

Senator SMITH. Thank you, Chair Crapo and also Ranking Member Brown, for this Committee hearing. And thanks, all of you, for being here.

You know, there is no doubt that we have a serious problem with a cash-only marijuana business and one that deserves Federal attention. And it is clear to me, having listened to this testimony and having spoken with banks and credit unions in Minnesota, that the status quo is just simply not workable, with 47 States with some form of legal marijuana use.

However, as we consider this legislation and any legislation to protect businesses and banks from criminal penalties, Mr. Chair

and Ranking Member, I think that we need to realize that, as we are looking at penalties, criminal penalties, for involvement of businesses with marijuana, we cannot forget the thousands of individuals who have spent time behind bars for their involvement with marijuana. And communities of color, particularly African American men, have paid a disproportionate price for generations of aggressive enforcement of marijuana laws.

Now, we have made some headway here with the bipartisan First Step Act. Just on Friday, I think, 3,100 people were released thanks to that act, but we all know that there is so much more that we need to do here.

So I think that it would be wrong for Congress to act to protect business interests without also considering what we need to do to erase the unjust suffering caused by our criminal justice policies. So I am glad to see this Committee consider this bill, and I believe that the Senate needs to consider it. I think the Senate also has a real responsibility to consider the civil rights implications of this new era of cannabis policy and our constitutional commitment to ensuring equal justice for all.

Now, on this particular bill and the issues that we have here, I would like to return to a question that Senator Tester touched on, which is the implications of legalized hemp production. Many farmers in Minnesota are looking at this. They are telling me that it is difficult to get loans. In some cases, it is very difficult to access payment processing for hemp.

For Ms. Pross and Ms. Sherwood, what should we be doing to improve this situation?

Ms. SHERWOOD. Really at this point we are waiting for the regulators to issue their guidance, and that is the sole item that is holding us back from going forward.

Ms. PROSS. Compared to cannabis—cannabis, we have the FinCEN guidance which provides such a clear framework, and with hemp, there is not as clear a framework for guidance. We are serving the hemp industry under Oregon's regulatory authority, but it is complex for sure.

Senator SMITH. So it is simply waiting for the Federal guidance that we need to make this workable.

Ms. SHERWOOD. Correct.

Senator SMITH. Let me ask another question. In Minnesota, we have legalized medical marijuana, yet I hear all the time from banks and credit unions that they are struggling to try to figure out what portion of money that is flowing through their institutions might have come in one way or another from some business related to cannabis. So could you just talk a little bit about how you see that issue? What is the best way we have right now for assessing that? And how might we fix that?

Ms. PROSS. Sure. That is a complex issue, and it speaks to what I talked about in my testimony about the interconnectedness of our economy. It is impossible to draw a clear line between what is cannabis related and what is natural commerce that has nothing to do with cannabis. And I used Walmart as an example today because not only does Walmart accept money from employees of cannabis businesses in States where it is legal, but Walmart very likely sells basic business supplies to legal cannabis entities via its website or

stores in other States where cannabis is legal. And it would just be impractical for us not to cash the paychecks of Walmart employees. It is the largest employer in 21 States.

So it is a messy issue. It is complicated, and it is not just about cannabis businesses. This extends to every State.

Senator SMITH. Right. And is there a way of resolving this under the current financial regulatory framework, do you think?

Ms. PROSS. I think the SAFE Banking Act is an important step. I think that is the answer.

Ms. SHERWOOD. I think it is a start. I think we need to get greater clarity, which certainly ABA is prepared to assist on and get a greater framework to go forward.

Senator SMITH. Great.

Mr. VAN METER. Senator, could I add something briefly on that? I think there is a distinction, as Ms. Sherwood mentioned before, between somebody who is incidental to the marijuana industry and somebody who is directly involved with it.

In the case of some ancillary businesses, the reason why they are worried is because they are directly manufacturing and selling hydroponics and grow lights equipment to marijuana growers.

Senator SMITH. Thank you.

Thank you, Mr. Chair.

Chairman CRAPO. Thank you. That concludes all of Senators. However, I want to ask a couple of follow-up questions.

I should indicated we have got a hearing with the FBI Director on leaks at the FBI that a number of our colleagues are at, and as well as a—well, that was a Judiciary hearing. The Finance Committee has got another big hearing, and we have got a lot of members on the Finance Committee. So I doubt that they will make it back. I do expect you will get a number of questions from them following the hearing, and I ask you to respond to those questions as quickly as you can.

I wanted to take a few moments to pursue just a couple of issue. I think a case has been made pretty strongly here about the need to get the banking industry issues relating to cannabis resolved. At the same time, I think a pretty strong case has been made both that legacy cash poses a real problem in terms of providing an access point for cartels and for other illegal anti-money-laundering activities as well as the ongoing operations. But I think legacy cash creates a special problem.

To all of you, and you can give brief answers to this, but is that correct? Is legacy cash basically a different issue here or a more difficult issue? Mr. Van Meter.

Mr. VAN METER. Senator, so in Appendix B of my testimony, I submitted a letter from former DEA Administrators and drug czars that outlines the ongoing threat, and then there was also a letter or testimony from a Colorado law enforcement officer talking about the mechanism by which organized crime or a cartel could abuse the SAFE Banking Act and the banking system. And, essentially, it boils down to the fact that it is very difficult to tell—this is always going to be a very cash-intensive business because the States' seed-to-sale tracking systems track customer data, and then those companies turn around and sell that back to the marijuana industry. There is always going to be a proportion of the clientele that

does not want to be tracked and so is always going to pay in cash. And so it becomes very difficult to tell if somebody is dropping off a backpack of cash at a bank where that money originated, and there are lots of opportunities for abuse.

Chairman CRAPO. Mr. Lord.

Mr. LORD. Senator Crapo, in response, when I began in this business almost 10 years ago, every last dollar was tracked by State regulators, short of a colonoscopy. It was very, very intense where my money came from, and I think I had to supply—it was either 5 or 7 years of financial records prior to entering this business.

So, you know, all money that entered this business from Colorado cannabis manufacturers has been thoroughly vetted, and right now our bankers, of which we do have basically a depository, so to speak, within the bank, conduct stress tests upon our business very, very frequently. And we have also audited books by a top ten national accounting firm. So it is thorough.

Chairman CRAPO. Thank you.

Ms. Pross or Ms. Sherwood, do you want to respond to that?

Ms. PROSS. Sure. Part of our ongoing due diligence and opening due diligence on cannabis-related accounts involves tying financial statements, which are very frequently audited—these are very professional businesses with CPAs and attorneys, and we are comparing financial statements to the financial activity we see going through the account. We are also comparing that information to data that we are getting from the Oregon Liquor Control Commission to ensure that everything makes sense. And if something does not make sense, that is being promptly reported to the authorities.

So we believe that this can be addressed, and it can be addressed in a very careful and diligent way.

Ms. SHERWOOD. I agree. As long as there is a clear guidance on how to handle legacy cash, it should be manageable.

Chairman CRAPO. All right. And this is a question—actually, again, I would like each of you to respond to this. I think Mr. Van Meter has raised some significant questions both with regard to the cash transactions and the banking transactions, but also with regard to, I guess I would say, the substantive regulation of product. For example, it has already been referenced, the high-intensity concentrates, the marketing tools and techniques, the targeting of children and so forth.

Do the States that have legalized marijuana, either medical use and/or medical and recreational use, do the States regulate those types of access and concentration and product content issues?

Mr. LORD. Senator, yes, they do, and very, very thoroughly. The maximum portion, regardless of potency, there are portion limits. There are maximum sales limits that we can sell a customer or a patient. We have tested product to parts per billion in purity, et cetera. The testing is extremely rigorous. It is in a State-tracked system in Colorado where every gram is traced seed to sale. And Colorado is being used, you know, because of the length of time that we have been in the market, as a template in other States, and so extremely thorough.

Mr. VAN METER. Senator, I wanted to point out, again, in the appendix to my testimony, there is a picture of some marijuana gummies, and these are considered not kid-friendly. So they are

brightly colored, they are sugar-coated, they are in the shape of pot leaves, and that is why they are considered not kid-friendly, because kids are apparently, under the Colorado regulations, only attracted to gummies that are in the shape of cartoon characters or animals or people, but not vegetables or pot leaves or geometric shapes. That is the logic as to how those products are legal.

I do not know about you, but any of my kids would quickly pick up these products, and that is why Poison Control calls are through the roof in all legalized States, but particularly Colorado and Washington State where the data is being tracked.

Chairman CRAPO. So I guess a question I have for you, Mr. Van Meter, are you arguing for a tougher Federal regulatory system of content and access? Or are you arguing that there simply should continue to be a nationwide ban on all marijuana products?

Mr. VAN METER. Well, we would—we do not think—we think that legalization in America equals commercialization, and there is not really a way to stop that. And so from that standpoint, I think there is a benefit to keeping marijuana federally illegal.

At the State level, we think that there are important regulations that should be put in place on potency, on product forms as a start.

Chairman CRAPO. All right. Ms. Sherwood and Ms. Pross, do you have an opinion on this issue?

Ms. SHERWOOD. I am not qualified to answer on the State restrictions. The reality is the voters have spoken. It is already in the system. We need to find a way to bank this.

Chairman CRAPO. Ms. Pross.

Ms. PROSS. The State of Oregon regulates the cannabis industry in Oregon through the Oregon Liquor Control Commission, and I understand that this issue—it is much bigger than just banking. There are certainly valid concerns being brought to this Committee hearing today. But the SAFE Banking Act is narrowly targeted. It is a narrowly targeted protection for financial institutions to serve an \$8.3 billion industry that is already in place today. It is narrowly targeted, and I think it is time for a bipartisan fix to this issue on the banking issue.

Chairman CRAPO. All right. Thank you.

I do have many more questions. I will probably submit some to you myself.

Again, I appreciate all of you coming today. This is a very important and complex issue that we need to get right, and your information that you have already provided and your testimony is very helpful in that regard. And as I indicated, you will probably be asked to submit some further advice and insight to us as you respond to the Senators' questions.

That does conclude the questioning for today's hearing. For the Senators who wish to submit questions for the record, those questions are due to the Committee by Tuesday, July 30th, and, again, we ask that you as the witnesses, if you receive questions, respond as quickly as possible.

With that, this hearing is concluded.

[Whereupon, at 11:42 a.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN MIKE CRAPO

Today, the Committee will hear from witnesses about the challenges that State-sanctioned businesses in the cannabis-industry have when attempting to access mainstream financial services.

Under the Controlled Substances Act, marijuana, or cannabis, is currently considered a Schedule 1 drug.

Being categorized as a Schedule 1 drug means that the possession, distribution, or sale of marijuana and other marijuana-derived products is illegal under Federal law, and any proceeds from cannabis-related activities remain subject to U.S. anti-money-laundering laws, such as the Money Laundering Control Act.

In the last several years, many States have used ballot initiatives or referendums that have legalized marijuana in some form, whether for recreational or medical use.

Currently, there are 11 States plus the District of Columbia, where it is legal to buy and consume recreational marijuana (and medical), as well as the 22 States plus D.C. that have approved medical marijuana—totaling 33 States in all that have some form of legal marijuana.

Senators Gardner and Merkley have introduced bipartisan legislation that attempts to ease some of the difficulties resulting from marijuana's illegal Federal status and more lenient State laws.

I have spoken many times with Senator Gardner on this bill and appreciate the hard work each Senator has done on this legislation. I look forward to hearing from each of you very soon.

Our second panel of witnesses will highlight challenges institutions face in banking different parts of the marijuana industry, how marijuana-related businesses operate and the complications they have faced in accessing financial services, and how the SAFE Banking Act would work.

We will also hear concerns over advocates pushing to legalize marijuana, the effects of the SAFE Banking Act in light of marijuana continuing to be illegal under Federal law, and health harms and addictions that marijuana can lead to.

I look forward to learning more about the SAFE Banking Act and understanding how the safe harbor would work, what the compliance challenges regarding interstate commerce could be, and the challenges presented when banking legacy cash, specifically ensuring that the legacy cash complies with the FinCEN guidance.

Having a conversation about whether banks should be able to provide banking services to entities engaged in federally illegal behavior brings up the issue and concern that there has been a push to choke-off legal industries from the banking sector.

I have said this many times and I will say it again, Operation Choke Point was deeply concerning because law-abiding businesses were targeted strictly for operating in an industry that some in the Government disfavored. Under fear of retribution, many banks have stopped providing financial services to members of these lawful industries for no reason other than political pressure, which takes the guise of regulatory and enforcement scrutiny.

Operation Choke Point was inappropriate and Congress needs to pass legislation to prevent future Operation Choke Point Initiatives.

PREPARED STATEMENT OF SENATOR SHERROD BROWN

Thank you Chairman Crapo for holding this hearing, and welcome to our witnesses.

Over the past several years, voters and legislatures in nearly every State have, to some degree, legalized or decriminalized cannabis. In my home State of Ohio, medical cannabis is now legal, and dispensaries opened earlier this year.

The legal cannabis industry is one of the fastest growing in the United States. It employs hundreds of thousands of people, many of whom are represented by unions like the United Food and Commercial Workers International Union.

These Americans work hard to support themselves and their families, just like workers in any other industry, and they deserve the same rights and protections. Yet, in States like Ohio, these workers and businesses find it difficult to access the banking system. And that puts them and the Americans they do business with at risk.

No matter how you feel about marijuana itself, we have a duty to look out for all the workers and communities we represent.

Without access to the banking system, legal cannabis businesses are forced to operate in the shadows, dealing in large amounts of cash. This puts a robbery target on the backs of workers and creates a safety hazard for communities. It can also

make it harder to monitor transactions and combat money laundering. And getting paid in cash means it's difficult to get a credit card, prove your income to get a loan, or even keep your personal bank account.

That can force workers to turn to shady outfits like payday lenders and check cashing services that charge high fees and interest rates, or trap people in a cycle of debt.

Companies or workers that have found a bank willing to handle their unique business often pay high fees and are limited to only the most basic financial services.

This problem doesn't just affect the cannabis industry. It also affects people that you might not think of. Plumbers, welders, and electricians service retail locations and other facilities. Lawn care and gardening companies, like Scotts Miracle-Gro in my home State of Ohio, sell materials and equipment. All these businesses want to serve their customers and support their workers, but they don't want to lose their longstanding banking relationships in the process.

Community banks and credit unions in my State and others want to serve the cannabis industries in their communities. In fact, when I met with the members of the Community Bankers Association of Ohio, and the Ohio Bankers League and Ohio Credit Union League earlier this year, nearly every hand shot up when I asked if this affected them.

But we know serving this industry comes with legal and supervisory risks, because of the tension between State and Federal law. It requires extra layers of due diligence that is challenging and costly for many banks and credit unions.

And, banks and credit unions play a key role in monitoring our financial system for fraud, money laundering, and other illegal activities. It's critical that we maintain our robust anti-money-laundering framework. And access to the banking system is essential to keeping our communities safe and ensuring full participation in the economy.

We can't continue to ignore this industry and the thousands of workers and communities it affects.

We also know that today's hearing is just one piece of the conversation Congress must have on marijuana policy. People should not be thrown in jail or have their futures jeopardized by a criminal record over nonviolent marijuana offenses. And everyone should have access to the medicine they need to care for themselves and their families.

I'm looking forward to hearing the perspectives of the witnesses today when it comes to banking policy and I hope Congress will consider it as part of a broader approach. Thank you, Chairman Crapo.

PREPARED STATEMENT OF SENATOR CORY GARDNER

Thank you, Mr. Chairman, Chairman Crapo, Ranking Member Brown, my friends and colleagues. Thank you for the opportunity to speak before you.

Let me start by saying thank you for holding this hearing. It is an important step toward the Federal Government waking up to the reality that the cannabis issue is not going away and needs action.

I know this is a difficult topic. But the American People sent us here to deal with difficult topics.

There has been a dramatic shift in Americans' views of cannabis in recent years. Polling shows that about 65 percent of Americans support legalization of marijuana. 93 percent support medical marijuana. In fact, majorities of both parties support legalization. In a time when all the talk is about how divided we are, it's hard to find that sort of support for an issue.

Given that support, it shouldn't be surprising that the vast majority of States have changed their laws. 47 States now allow some form of cannabis. (I recognize that my good friends from the 3 that have not—Idaho, Nebraska, and South Dakota—are on this Committee.) That represents more than 95 percent of our population living in a State with laws allowing some form of cannabis.

Thirty-three States have legalized medical marijuana. Eleven allow regulated adult use.

This is happening in the bluest of blue States, the reddest of red, and—in Colorado's case—the purplest of purples. It's happening in traditionally progressive States like Oregon, Massachusetts, and California. It's happening in fiercely independent States like Colorado, Alaska, and Maine. It's happening in conservative States like North Dakota and Georgia. It's happening in rust belt States like Pennsylvania and Ohio.

Last year alone, Michigan, Missouri, Oklahoma, Utah, and Vermont all adopted or expanded marijuana programs.

In short, the States are leading on this issue, and the Federal Government has failed to respond. It has closed its eyes and plugged its ears and pretended the issue will go away. It won't.

This disconnect between Federal and State marijuana laws has become, as the Attorney General has testified, both "intolerable" and "untenable."

The dramatically expanding cannabis industry presents real challenges for our Nation. I have been a skeptic about cannabis legalization. It is no secret that I opposed legalization in Colorado in 2012.

I was concerned about the effects of legalization on Colorado's youth and public safety. I was leery of breaking with the Federal Government. I was uneasy about adding another intoxicant in our culture, and I did not—and still do not—want to encourage my own children to use marijuana.

Several years into legalization in Colorado, I can say that the sky hasn't fallen. There are challenges to be sure: Colorado has seen an increase in transient populations; there are concerns about traffic safety and hospitalizations; and cannabis has been illegally trafficked into neighboring States.

But according to a recent JAMA Pediatrics report, youth use is about 10 percent lower in legalized States. One strong theory as to why that's the case is that legal dispensaries both force out illegal sellers and enforce age limits. So youth actually have less access to marijuana.

The data on crime are mixed. Marijuana offenses are down. Colorado has also experienced an increase in violent crime, but that's likely a result of an increase in transient populations moving to the State.

At the same time, the State has brought in over \$1 billion in tax revenue. Last year alone, the State received more than \$266 million marijuana taxes. Millions of those dollars are ending up in Colorado schools.

In short, the sky is not falling in Colorado.

Instead, what makes the current situation intolerable and untenable is the disconnect between Federal and State law.

For instance, every single State-legal cannabis transaction in Colorado is federally illegal. That means the dollars involved are the proceeds of an unlawful transaction under the Federal money-laundering statutes. That means that all of the different parts of our economy that connect to any legitimate business—plumbers, electricians, lawyers, accountants, landlords, etc.—risk becoming Federal criminals for serving a client.

That also means that the \$1.5 billion industry is nearly all cash. Banks will not accept industry money for fear of regulatory action or Federal forfeiture.

Keeping those dollars out of banks means we lose the ability to trace where the dollars go. It also makes it harder to ensure all taxes are being paid. It makes it easier for criminals in the illicit market to pose as legitimate. And it leaves hundreds of millions of dollars of cash in the State.

For example, the State Department of Revenue has one location that accepts cash. So business owners in the western part of the State often have to drive 5 or more hours with tens of thousands of dollars in cash just to pay their taxes.

That creates a genuine public safety problem. Stockpiles of cash make the industry a target for thieves. In 2016, a 24-year-old former Marine was tragically shot and killed while on duty as a security guard at a dispensary.

And we are making it hard for these businesses to comply with the law. A few months ago a partner at a major national law firm told me that the firm's bank accounts were going to be shut down because they counsel State-legal cannabis clients.

I've also heard from the city officials in the town of Desert Hot Springs, California. For them, lack of banking means that when they take in a million dollar bond for a cannabis business, it takes days to count the cash. It takes several employees off their normal work and it requires extra security in the city offices.

All of this is just scratching the surface of the financial services problems caused by the Federal/State disconnect. I haven't mentioned the problems with research or veterans' access or the EPA refusing to certify pesticides for use on cannabis or the FDA's struggle to police advertising claims or the confusion created for law enforcement or any of the other myriad problems that contribute to this intolerable and untenable situation.

We have to act.

Our failure to act seems to be grounded in two incorrect assumptions. The first is that we can continue prohibition. We can't. We are a Government of the People and the People have changed their views. So our laws must change.

The second is that we can come to a national consensus for full-throated legalization in the nearterm. We can't. There are still too many unanswered questions.

Many States that have legitimate concerns. If those seeking reform insist on swinging for the fences, they will strike out and lose the chance for real improvement.

I believe Senator Merkley recognizes this. I appreciate his efforts to provide real concrete improvement for the financial services industry with the SAFE Banking Act.

I believe Senator Warren recognizes this. I appreciate her efforts to forge a compromise to allow the States to move at their own pace with the STATES Act.

And I believe you, Mr. Chairman, Ranking Member Brown, my friends on the Committee, will see through this hearing that we must act. Thank you for holding this hearing, and thank you for the opportunity to speak.

PREPARED STATEMENT OF SENATOR JEFF MERKLEY

Chairman Crapo and Ranking Member Brown, thank you for convening this hearing on the challenges faced by the cannabis industry in the banking sector, and for considering the legislation put forth by Senator Gardner and myself, the Secure And Fair Enforcement (SAFE) Banking Act (S. 1200).

The lack of availability of financial services for cannabis-related businesses in States where it is legalized has created a scenario where businesses are forced to operate in all cash, leading to unsafe environments for all parties involved. Financial institutions support legal clarity and certainty and a legislative hearing would provide an opportunity to address outstanding questions and ensure a better understanding of the proposed bipartisan legislation.

As of today, a majority of States and U.S. territories allow for some form of legal cannabis. In total, 34 States, the District of Columbia and various U.S. territories have legal frameworks that allow for either medical or adult-use of cannabis. Eleven States have allowed for legal adult and medicinal use of cannabis in a regulated program. Twenty-three States have a comprehensive medical marijuana program. In addition to these 34 States, another 13 have a limited medical use program, which includes use of products containing cannabidiol (CBD) or low tetrahydrocannabinol (THC).¹

Legal Uncertainty

Currently, a limited number of State and federally chartered financial institutions operate under guidance issued in February 2014 by the Financial Crimes Enforcement Network (FinCEN) for cannabis related businesses in States where cannabis is legal.² While the FinCEN guidance offers some clarity to financial institutions that are offering financial services to cannabis businesses, these institutions are forced to operate in an uncertain legal environment.

This uncertain legal environment was exasperated when former Attorney General Sessions rescinded the guidance known as the “Cole Memorandum” on January 4, 2018.³ The guidance directed U.S. Attorneys in States with regulatory and enforcement systems that marijuana enforcement should be managed at the State and local level. On April 9, 2019, Treasury Secretary Mnuchin testified before the House Financial Services Committee that, “if this is something that Congress wants to look at on a bipartisan basis, I’d encourage you to do this. This is something where there is a conflict between Federal and State law that we and the regulators have no way of dealing with.”⁴

SAFE Banking Act of 2019

The Secure and Fair Enforcement (SAFE) Banking Act of 2019 would give legitimate businesses acting in compliance with State cannabis laws access to the banking system, including protection against prosecution or asset forfeiture solely for providing services to a State-sanctioned cannabis-related business.

¹National Conference of State Legislatures. “Marijuana Overview”. National Conference of State Legislatures. May, 28, 2019. Available at: <http://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>. Vox. “Illinois Just Legalized Marijuana”, June 25, 2019. Available at: <https://www.vox.com/2019/6/25/18650478/illinois-marijuana-legalization-governor-jb-pritzker>.

²Department of the Treasury Financial Crimes Enforcement Network. “BSA Expectations Regarding Marijuana-Related Businesses”. FinCEN. February 14, 2014. Available at: <https://www.fincen.gov/sites/default/files/shared/FIN-2014-G001.pdf>.

³Department of Justice. “Memorandum for all United States Attorneys on Guidance Regarding Marijuana Enforcement”. August 29, 2013. Available at: <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.

⁴Tom Angell, “State Financial Regulators Press Congress To Allow Marijuana Banking Access”, *Forbes*, April 16, 2019. Available at: <https://www.forbes.com/sites/tomangell/2019/04/16/state-financial-regulators-press-congress-to-allow-marijuana-banking-access/#768692a755c9>.

Financial institutions that provide banking services to legitimate cannabis businesses, including tribal businesses conducting State-sanctioned activities in Indian Country, are currently vulnerable to criminal prosecution under Federal law. Few banks and credit unions are willing to risk providing services to cannabis-related businesses, leaving many of them cut off by financial institutions and unable to accept credit cards, deposit revenues, or write checks to meet payroll or pay taxes. Cannabis-related legitimate businesses have lost their accounts at both banks and credit unions because of the uncertainty. Forcing business and tribes to operate in all cash creates a serious safety risk for the businesses and the neighboring community. By allowing banks and credit unions to service legitimate State-regulated cannabis businesses and tribes engaging in the cannabis industry in States where it is legal, this bill will help law enforcement protect our communities, and help local, State, tribal, and Federal taxing agencies collect taxes due on State-sanctioned cannabis sales.

This legislation:

- Provides safe harbor for depository institutions and credit unions by preventing Federal banking regulators from:
 - Terminating or limiting depository institutions' Deposit Insurance Fund or credit unions' share insurance under the National Credit Union Share Insurance Fund for providing services to a State-sanctioned and regulated cannabis business, or to a tribe that has cannabis-related businesses, solely because that institution is providing services to a legitimate State-sanctioned and regulated cannabis business;
 - Prohibiting, penalizing, or discouraging a depository institutions from providing financial services to a legitimate State-sanctioned and regulated cannabis business;
 - Recommending or incentivizing a depository institution to halt or downgrade providing any kind of banking services to these businesses; or
 - Taking any action on a loan to an owner or operator of a cannabis-related business.
- Creates safe harbor from liability and asset forfeiture for institutions and their officers and employees who provide financial services to legitimate cannabis businesses pursuant to State or tribal law.
- Does not require depository institutions or credit unions to provide financial services to a cannabis-related legitimate business.
- Requires depository institutions and credit unions to file Suspicious Activity Reports under the Bank Secrecy Act pursuant to relevant FinCEN guidance.

Widespread Support

There is widespread support across local government, law enforcement, and industry to provide a safe harbor for cannabis businesses to access financial services. In April 2019, a bipartisan coalition of 25 State banking regulators sent a letter to Congress emphasizing the need for a permanent resolution to cannabis businesses' access to financial services. Their letter highlighted the risk to the economy, financial institutions, and public safety caused by the uncertainty between Federal and State law. Another bipartisan coalition of 17 State treasurers have also supported taking up the SAFE Banking Act. And in May 2019, a bipartisan group of 38 State attorneys general sent a letter to Congress urging they take up the SAFE Banking Act, in the interest of public safety and bringing cannabis into the regulated banking sector.

A large swath of the financial industry, including the Independent Community Banks of America, the American Bankers Association, the Credit Union National Association, the Ohio Bankers League, and the Ohio Credit Union League have endorsed the SAFE Banking Act as a mechanism for financial institutions to offer services to cannabis and cannabis affiliated businesses without violating law. Finally, the National League of Cities also endorsed passage of the SAFE Banking Act as a way to provide cannabis businesses access to the banking system.

In the U.S. House of Representatives, the SAFE Banking Act (H.R. 1595) passed through the House Financial Services Committee on June 5, 2019, with strong bipartisan support and a vote of 45 to 11.

Closing

In closing, I thank you for this legislative hearing today, which will give Members the opportunity to hear directly from witnesses who have direct experience with the challenges facing the financial sector, the cannabis industry, and law enforcement. More than half of the States in our country allow for medical or adult-use of can-

nabis. As more States consider legalization of cannabis for medical and adult-use, it is critical that this Committee create a path for the financial sector's role in serving the growing cannabis industry.

PREPARED STATEMENT OF RACHEL PROSS

CHIEF RISK OFFICER, MAPS CREDIT UNION, ON BEHALF OF THE CREDIT UNION
NATIONAL ASSOCIATION

JULY 23, 2019

Good afternoon, Chairman Crapo, Ranking Member Brown, and Members of the Committee. Thank you for this opportunity to testify on a very important issue: ensuring access to mainstream financial services for cannabis businesses that operate legally under State law.

My name is Rachel Pross. I am the Chief Risk Officer of Maps Credit Union, a mid-sized financial cooperative in Salem, Oregon. I am testifying today on behalf of the Credit Union National Association, the Nation's largest credit union advocacy organization. CUNA represents both State and Federal credit unions and the 115 million members across the United States that they serve.

Maps Credit Union (Maps) has approximately 270 employees and \$770 million in assets. Our credit union was founded in 1935 when a group of teachers pooled together their scarce resources for the collective, greater good. Today, Maps has a community charter and serves over 65,000 member-owners in Oregon's relatively rural Willamette Valley. Our cooperative has 10 branches in addition to a robust educational outreach program that includes 2 student-operated branches in our local high schools.

As a community-focused organization, we have seen and experienced first-hand the many challenges facing both financial institutions and State-sanctioned cannabis businesses seeking to operate within the financial mainstream. My testimony will talk about those challenges, but, before going into great detail, I'd like to start by telling you a story. It is the story of how my credit union, Maps Credit Union, has sought to overcome those challenges since 2014 and has become a part of the solution for the Willamette Valley communities of Oregon. Our efforts were sparked by the people of the State of Oregon voting in favor of ballot measure 91 and, as a result, making the use of cannabis for both recreational and medicinal purposes legal under Oregon law.¹

The Maps Credit Union Approach to Cannabis Banking: Offering Communities in Oregon a Safe Solution

As a financial cooperative, Maps believes that it is our duty to serve the members of our community and to listen to the needs of the individuals and businesses who contribute to that community. Though Maps has no position on whether cannabis should be legalized federally, we acknowledge that the voters of Oregon have already spoken on that issue for the people of our State. Accordingly, after extensive research and risk analysis in 2014, our member-elected, volunteer Board of Directors voted to serve cannabis businesses for two primary reasons:

1. To serve the underserved—which speaks to the credit union mission and philosophy as a not-for-profit financial cooperative, and
2. To enhance the safety of our community in the Willamette Valley by removing large amounts of cash from the streets of our cities by ensuring that legal cannabis businesses operating in the State of Oregon had access to mainstream financial services.

To our knowledge, Maps is the only financial institution in the State of Oregon that has continuously served the cannabis industry since 2014. And, in the 5 years since, our organization has come to provide banking services to 500 Oregon-sanctioned cannabis businesses. That makes the cannabis banking program at Maps one of the largest in the United States.

In terms of safety, statistics show that cash-only businesses increase the risk of crime. This is especially true in the cannabis industry given the lack of access to mainstream financial services. A 2015 analysis by the Wharton School of Business Public Policy Initiative found that, in the absence of being banked, one in every two cannabis dispensaries were robbed or burglarized—with the average thief walking away with anywhere from \$20,000 to \$50,000 in a single theft. Compare that with the statistics from our credit union. In 2017 and 2018 alone, Maps received well

¹ Cannabis usage for medicinal purposes became legal in the State of Oregon in 1998.

over \$529 million in cash deposits from cannabis businesses. So far this year, we've received another \$169 million in cash deposits—meaning that we are on track to remove over \$860 million in cash from the sidewalks of Oregon's communities in just 3 years. That's millions of dollars that used to be carried around in backpacks and shoeboxes by legitimate, legal business owners in the State of Oregon, making them prime targets for thieves and other criminals.

When Maps' Board of Directors voted to serve cannabis businesses, they knew it would be one of the first programs of its kind in the country, and they committed to fostering the diligent culture of risk management and compliance necessary to do it properly. Maps' goal was and is to help set a standard nationwide, enabling other credit unions to eventually serve the industry with tried-and-true best practices.

The compliance framework Maps utilizes to serve canna-businesses is based on the U.S. Department of the Treasury's Financial Crimes Enforcement Network BSA Expectations Regarding Marijuana-Related Businesses (FinCEN Guidance). Though the February 2014 Cole Memorandum from the Department of Justice (Cole Memo) was rescinded in January of 2018 by Attorney General Sessions, the guidelines of the Cole Memo remain in place as part of the FinCEN Guidance.

To comply with the FinCEN Guidance, Maps has established a rigorous screening and compliance protocol and has invested considerably in the robust infrastructure required to appropriately monitor and maintain these high-risk accounts. We have a centralized team of dedicated professionals in our cannabis banking program, and the staffing averages one full time employee for every 40 cannabis business accounts. Our Bank Secrecy Act and Anti-Money Laundering Compliance Program has been reviewed by both State and Federal financial regulators on multiple occasions, and we also obtain an independent, external compliance audit of the Program annually. In February 2018, I had the opportunity to represent Maps as a guest presenter on behalf of the financial sector at U.S. Attorney Billy Williams' Oregon Marijuana Summit in Portland. The subsequently issued enforcement priorities of the Oregon U.S. Attorney also play an important role in the monitoring of cannabis business account activity at Maps.

As part of Maps' initial evaluation and ongoing monitoring of cannabis-related accounts, we collect corporate records, ownership information (including criminal background checks on all account signers), ongoing financial statements, and day-to-day account transaction activity. All of that information is meticulously scrutinized to ensure the activity on the accounts is legitimate and, to the best of our knowledge, completed in accordance with State laws and the FinCEN Guidance. We work closely and transparently with our regulators, and we take pride in having a collaborative relationship with the Oregon Liquor Control Commission to ensure that the cannabis businesses we serve are operating in compliance with all applicable State licensure requirements. That information sharing is permissible under Oregon House Bill 4094, which was signed into law in April 2016 by Oregon Governor Kate Brown. HB 4094 exempts financial institutions that provide financial services to lawful marijuana-related businesses from any applicable criminal law in the State of Oregon and includes a provision on information sharing.

Most importantly, in accordance with the FinCEN Guidance, the Credit Union files quarterly Suspicious Activity Reports (SARs) on every cannabis-related business account in the organization, and we file Currency Transaction Reports (CTRs) on every cash transaction or group of cash transactions totaling over \$10,000 in one business day. Also, in accordance with the FinCEN Guidance, the Credit Union prioritizes SARs with regard to which cannabis accounts are acting in accordance with State law and any accounts we suspect could possibly be engaged in illegal activities such as diversion into other States, money laundering, or black-market sales.

To put some numbers around this compliance program, as of June 30, Maps has filed approximately 19,500 individual reports (CTRs and SARs) related to cannabis business accounts since January of 2017. Diving more deeply into that number, Maps has filed 3,489 Suspicious Activity Reports since January 1, 2017, and 91.5 percent of those SARs were directly due to our filing obligations for cannabis businesses under the FinCEN guidance. When filing SARs, Maps provides the names of all individuals who are involved with the accounts, all account activities broken down by individual transactions, and a description of that activity. Once a SAR is filed, law enforcement can request additional supporting documentation related to the reported activity, giving the Government a very broad ability to review the information we have so diligently collected and retained on the accounts.

Because the cannabis industry is primarily cash-based, these transaction records would not otherwise be available if financial institutions were not permitted to serve the industry. We firmly believe that providing banking services to this industry de-

livers a significant benefit to law enforcement because Maps is essentially providing free, highly detailed information at least every quarter on cannabis-related monetary activity in the State of Oregon. Furthermore, we educate each and every one of our cannabis-related account holders about the FinCEN Guidance and the criticality of compliance and transparency. This ultimately reduces the likelihood of financial crime on their parts. They want to keep their accounts with us, so they carefully adhere to the requirements given to them.

As a pressing word of caution, there are numerous unscrupulous players trying to benefit from the severe shortage of legitimate financial services available to cannabis businesses, and concerns around criminal prosecution are only feeding those predatory players' flames. Cannabis businesses are frequently bombarded with proposals for payment "solutions" that are unregulated (and therefore not subject to Bank Secrecy Act compliance), and their "solutions" are often very clearly a form of money laundering. We have heard of proposals involving everything from cryptocurrency to cashless "chit" mechanisms to the use of prepaid gift cards—none of which would provide the Federal Government any valuable information on cannabis-related financial activity or the movement of cannabis within the United States. Credit unions, however, are heavily regulated and prudently abide by State and Federal guidelines, so we are undoubtedly a safe and transparent choice for both cannabis businesses and the U.S. Government.

With the momentum currently seen across the United States toward the legalization of cannabis either medicinally or recreationally in many States, there is deepening interest in the financial sector for serving these businesses. Having been founded by a group of teachers, it should come as no surprise that Maps is passionate in our beliefs about the importance of education and advocacy. To that end, I presented Maps' cannabis banking program 16 times nationwide last year. This collaboration is part of the DNA in credit unions, and we consider it a privilege and an honor to assist other credit unions with vetting their own programs.

Even Without Directly Accepting the Cannabis Industry as Clients, Credit Unions and Banks Operating in States Where Cannabis Is Legal Still Risk Unknowingly Serving Cannabis-Related Businesses

Indirect connections to cannabis revenues are hard, if not impossible, for financial institutions to both identify and avoid. The simple reality is that growers and retailers in the cannabis industry do not operate in a vacuum. Instead, like almost every other business, the industry is dependent upon any number of vendors and suppliers to function. These are everyday businesses like the printing company that makes a business card, the office supply company that fulfills order for pens and copy paper, the housekeeping crew or landlord that cleans or rents office or retail space, and even the utility company that provides that office/retail space or growing location with water or electricity. Under the existing status quo, a credit union that does business with any one of these indirectly affiliated entities could unknowingly risk violating the Federal Controlled Substances Act, USA Patriot Act, Bank Secrecy Act, and/or the Racketeer Influenced and Corrupt Organizations Act, among other Federal statutes.

Yet, as a bipartisan group of Senators noted in a 2016 letter to FinCEN, "[l]ocking Lawyers, landlords, plumbers, electricians, security companies, and the like out of the Nation's banking and finance systems serves no one's interests."² The current rift between Federal and State law has left credit unions and other financial institutions trapped in a scenario where their mission to serve the financial needs of their local communities is directly pitted against the inability to have perfect information regarding every indirect business activity and the threat of Federal enforcement action.

Without banking services, cannabis businesses and the businesses indirectly related to them are less able to obey the law, pay taxes, and follow State regulations. The public safety risks posed by these businesses are easily mitigated through access to mainstream banking service providers and keeping the cash off the streets. This is a critically important public service.

Even Without Directly Accepting the Cannabis Industry as Clients, Credit Unions and Banks Operating in States Where Cannabis Is ILLEGAL Still Risk Unknowingly Accepting Funds Derived From Cannabis-Related Businesses

There are 25 Members of the Senate Banking Committee. Though some form of cannabis usage for either medicinal and/or recreational purposes is legal in many

² 2016 Senate Letter to FinCEN requesting guidance on ancillary businesses (Dec. 14, 2016), available at <https://www.warren.senate.gov/files/documents/12-14-16-SL-FinCEN-Indirect-Businesses.pdf> (last accessed July 10, 2019).

States represented by this Committee's membership, it remains either partially or wholly illegal in a significant number of the States that the Members of this Committee have been elected to serve. Given that reality, it may be tempting for some Senators on this Committee to believe that the issues relating to this problem do not affect either the financial institutions in their State or their individual constituents. That belief, however, would be wrong.

The reality is that the United States benefits from a nationally, even globally interconnected economy, where a company like Wal-Mart-based in the State of Arkansas—where recreational cannabis usage is illegal—could conceivably, or even likely has sold paper or light bulbs to a recreational cannabis business operating legally in the State of California through its online platform or the 167 retail stores it operates in that State. The same is true for companies like Albertson's, a grocery chain based in the State of Idaho, where cannabis usage is illegal for both medicinal and recreational purposes. Yet, the interconnected nature of our national and global economy understands that Albertson's operates 129 stores in the State of California, 32 stores in the State of Washington, and 30 stores in Oregon—States where cannabis usage is legal for both medicinal and recreational purposes. These examples hint at the truth: every time an employee of a cannabis-related business uses his or her paycheck to buy something as benign as groceries, the local Arkansas or Idaho bank or credit union depositing the companies' profits gained from those sales is directly impacted by the dilemma before this Committee today.

Wal-Mart is the single largest employer in 21 States in this country, including Kansas, Arkansas, Louisiana, Mississippi, Virginia, Alabama, Georgia, South Carolina, and Ohio, making these concerns an everyday consideration for the credit unions and banks operating in those States and choosing to accept their corporate profits and individual employee paychecks for deposit. The same is true for other nationally prominent retail chains serving as one of a State's largest employers, such as Lowe's Home Improvement in North Carolina, Kroger Grocery Stores in Arizona, Albertson's in Montana, and Giant Grocery Stores and Home Depot in Pennsylvania. Because each of these retail chains has a significant footprint in States where cannabis-related businesses are legal for either medicinal or recreational purposes—and often both—there can be little doubt that some income that they derive is related to the cannabis industry. Yet, the inability for credit unions and banks to accept deposits or bank individuals affiliated with their State's largest employers would have devastating consequences to the economies of each of those States and, most importantly, its citizens. That result, however, is exactly what the status quo can be read to require.

These challenges are not limited to the retail sector alone. In States like South and North Dakota where Sanford and Avera Healthcare systems serve as the States' largest employers, recognition of the fact that each operates medical facilities in Minnesota—where physicians and nurse practitioners are legally permitted to prescribe Cannabis for certain medical conditions—suggests that some portion of each company's earnings could derive from cannabis-related business. Yet, no one wants to see the credit unions and banks in North and South Dakota stop accepting deposits related to the largest employers in each State. Additional examples exist, such as the investment portfolio of Nebraska's Berkshire Hathaway or the internet and telephone communication services provided in cannabis-legal States by Sprint and Century Link. In short, the banking systems in every single member of this Committee's own State are jeopardized by Congress's failure to address this issue. And so are the banking abilities of your largest employers and the banking abilities of your individual constituents. For each of these reasons, the Members of this Committee, and Congress as a whole, must act.

Congress Should Grant Financial Institutions That Serve State-Sanctioned Cannabis or Cannabis-Related Businesses a Safe Harbor From Criminal Prosecution for Providing Banking Services

In the absence of a Federal law providing explicit legal clearance for financial institutions to provide banking services to the Cannabis industry, it is highly likely that many of these businesses will be forced to continue operating outside of the financial mainstream. That outcome increases the potential of lost tax revenue, increases the likelihood of criminal thefts in our communities, and deprives both State and Federal law enforcement of important information about cannabis activity. We need Congress to resolve the risk financial institutions face by providing a safe harbor for credit unions and banks serving State-sanctioned cannabis businesses. That's why both Maps and the Credit Union National Association support legislation like "The SAFE Banking Act", sponsored by Senator Merkley as S. 1200 in the Senate and Representative Perlmutter as H.R. 1595 in the House during the current 116th Congress.

If enacted, the SAFE Banking Act would offer narrowly targeted Federal protections for credit unions and other financial institutions accepting deposits from, extending credit or providing payment services to an individual or business engaged in cannabis-related commerce in States where such activity is legal with a safe harbor, so long as they are compliant with all other applicable laws and regulations. Furthermore, the SAFE Banking legislation provides safe harbor to credit unions and their employees who are not aware if their members or customers are involved in this business. We believe this is a reasonable and sound approach.

Conclusion

Credit unions do not have a position on the Federal legalization of cannabis. The simple fact of the matter, however, is that many credit unions operate in States and communities that have made cannabis usage or growth legal for medicinal and/or recreational purposes. We strongly believe that financial institutions should be permitted to lawfully serve businesses that engage in activities that are authorized under their State laws, even when such activity may be inconsistent with Federal law. For that reason, credit unions will continue to support the SAFE Banking Act.

On behalf of America's credit unions and their 115 million members, we urge both Congress and the Administration to work towards turning this legislation into the law and providing financial institutions with the certainty needed to better serve our communities.

Thank you for the opportunity to testify today. I am happy to answer any questions the Committee Members may have.

PREPARED STATEMENT OF JOANNE SHERWOOD

PRESIDENT AND CEO, CITYWIDE BANKS, ON BEHALF OF THE AMERICAN BANKERS ASSOCIATION

JULY 23, 2019

Chairman Crapo, Ranking Member Brown, and Members of the Committee, I am Joanne Sherwood, President and CEO of Citywide Banks and Chair of the Colorado Bankers Association. Citywide Banks is headquartered in Denver, Colorado, with \$2.3 billion in total assets.

I appreciate the opportunity to present the views of the American Bankers Association (ABA) regarding the Federal prohibition preventing banks from handling money related to cannabis businesses. ABA is the voice of the Nation's \$18 trillion banking industry, which is composed of small, midsize, regional, and large banks that together employ more than two million people, safeguard nearly \$14 trillion in deposits, and extend \$10 trillion in loans.

ABA supports S. 1200, the SAFE Banking Act and we are grateful to Chairman Crapo and Ranking Member Brown for your leadership in holding a hearing to discuss this urgent issue. While some lawmakers would prefer to avoid this subject, voters have made it clear that this issue is not going away—with 33 States already having approved cannabis use and as many as 10 more States with potential cannabis-related initiatives on the ballot in 2020.

Since 1996, voters across the country have determined that it is appropriate to allow their citizens to use cannabis for various purposes. In Colorado, voters approved medical cannabis in 2000 and voted to approve recreational cannabis sales in 2012.

As the legal State-cannabis industry continues to grow, the indirect connections to cannabis revenues will also continue to expand. Without congressional action and clearer guidance from banking regulatory agencies, that entire portion of economic activity, which operates across all 50 States, may be marginalized from the banking system.

Despite the majority of States having adopted cannabis regimes of some kind, Federal law prevents banks from banking cannabis businesses. Specifically, The Controlled Substances Act (21 U.S.C. §801 et seq.) classifies cannabis as an illegal drug and prohibits its use for any purpose. For banks, that means that any person or business that derives revenue from a cannabis firm—including real estate owners, security firms, utilities, vendors and employees of cannabis businesses, as well as investors—is violating Federal law and consequently putting their own access to banking services at risk.

Unintended Consequences Are Significant if Cannabis Businesses Cannot Be Banked

Because cannabis continues to be illegal at the Federal level, handling funds associated with cannabis businesses can be deemed money laundering. That Federal/

State divide has particularly severe repercussions for banks and communities like mine, where the cannabis industry is fully operational, but it also impacts banks in every State.

In Colorado, there was over \$1.5 billion in total cannabis sales in 2017, with almost \$600 million in total sales in the city of Denver. With limited access to banking services available, there exists a cash economy for cannabis which lacks visibility from a regulatory and taxation perspective. Large amounts of cash remain on site in many of the cannabis related businesses which creates significant safety concerns for the communities where they are located. To give you a sense of the scope of this problem, there are approximately 500 unique locations for licensed cannabis business in Denver alone.

For banks in States like Idaho and Nebraska, where cannabis has not been legalized for any purpose, there are still significant compliance challenges that must be addressed. Cannabis businesses operating in States where it is legal rely on suppliers, service providers and even investors to support their business operations. For example, the bank may have a customer that is an agribusiness, a law firm, a payroll company, or a real estate investor whose business derives some measure of revenue from a cannabis related business in a neighboring State. As a result, a bank may inadvertently serve businesses and individuals that have connections with and receive funds from legal State cannabis companies in a nearby State despite the bank's best efforts to identify and prevent cannabis-related funds of any kind from entering the bank. Bank customers do not contain their financial activity within State boundaries, and their economic interactions are varied and may only be tangentially related to a State cannabis business.

Short of terminating their relationships with all of these customers who are otherwise unrelated to cannabis but which do receive money from a cannabis-related business, the bank must dedicate significant resources to developing a compliance strategy that allows them to continue to serve their communities in an environment where the letter of Federal law and the reality of the current marketplace are irreconcilable.

Many Benefits Accrue From Enabling Banks To Serve This Market

In addition to the unintended consequences for ancillary businesses, communities with legalized cannabis are also struggling to address the significant challenges to public safety, regulatory compliance and tax compliance that go together with cash-reliant businesses. For example, in Denver, cannabis businesses make up less than 1 percent of all local businesses but have accounted for 10 percent of all reported business burglaries from 2012–2016. On average, more than 100 burglaries occur at cannabis businesses each year according to the Denver Police Department, and burglaries and theft comprise almost 80 percent of Denver's cannabis industry-related crime. Providing a mechanism for the cannabis industry to access the regulated banking system would help those businesses and their surrounding communities by reducing the high-volume of cash on hand, thereby reducing instances of cash-motivated crime.

Access to the banking system would also increase the efficiency of tax collections and improve the financial transparency of the cannabis industry. Since many cannabis businesses do not have a bank account, they are forced to pay their taxes in cash at local IRS offices. Processing such paper-based returns costs the IRS nearly 17 times more compared to an e-filed return, and sometimes requires local tax offices to invest in additional security measures because of the cash payments. Those costs are ultimately borne by taxpayers and could be avoided by allowing cannabis businesses access to bank accounts, which enable electronic tax payments.

Due to the lack of transparency associated with cash-based transactions, taxpayers are also less likely to report cash income than payments received by check or those subject to third-party reporting or withholding. Although the cannabis industry is regulated and therefore likely more tax-compliant than unregulated cash-based businesses, initial studies show that there are still significant tax evasion challenges in the current cannabis environment. The city of Sacramento, for example, estimated that cannabis dispensaries are underpaying their taxes by up to \$9 million per year due to poor recordkeeping or filing of inaccurate financial statements with local tax collectors. Given that tax revenues from the cannabis industry are often earmarked for education and public health initiatives, compliance is critical to the well-being of local communities. Banking the cannabis industry is a straightforward way to ensure that businesses have the means and motivation to remain fully tax compliant.

Allowing cannabis related businesses access to the regulated banking system would also improve Federal and State oversight of their financial activities. Bank accounts are monitored in accordance with existing anti-money laundering and

Bank Secrecy Act requirements which help law enforcement to identify and address suspicious transactions—an opportunity that is not available in an all-cash environment. One of the foundations of the Bank Secrecy Act (BSA) is the transparency provided by bank records of transactions. In fact, when adopting the BSA in 1970, Congress found that records maintained by businesses “have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings.” The increased transparency that would come from processing transactions through bank accounts instead of in cash would ensure that regulators and law enforcement have the necessary tools to identify bad actors and remove them from the marketplace. The activity of cannabis businesses would become part of the standard process that all banks apply to their customers to understand customer profiles, assess risk, and monitor for and report possible suspicious activity and large cash transactions.

For example, currently, when banks open accounts, they verify the identity of the individuals opening the account and create a risk profile for the customer based on a variety of factors: the bank products used, the type of business the customer is in, where the company plans to do business, and its existing relationships with the bank, among others. Then, once the account is opened, the bank will monitor transactions to ensure that the customer is operating in accordance with the profile presented at account opening. If something unusual or out of the ordinary occurs that cannot be explained, the bank will report that to the appropriate authorities by filing a Suspicious Activity Report (SAR). In addition, if the customer engages in a large cash transaction, the bank generally will file a Currency Transaction Report with FinCEN. If a customer is operating on an all-cash basis without a bank account, none of that takes place and if unusual transactions occur, it is not reported to FinCEN.

Despite the myriad benefits that would result from banking this fledgling industry, widespread and consistent financial services will not be possible until Congress removes the risk of Controlled Substances Act liability and directs the Federal banking regulators to issue guidance to help banks understand what procedures are acceptable. Currently, the only direction available to financial institutions in connection with cannabis-related accounts comes from guidance issued by the Financial Crimes Enforcement Network (FinCEN) in 2014. That guidance, which references a now rescinded memorandum from the U.S. Department of Justice (the “Cole Memo”), describes how financial institutions can report cannabis-related business activity consistent with their Bank Secrecy Act obligations where there is this conflict between State law which makes an activity legal and Federal law which prohibits it. It does not create a safe harbor or otherwise modify Federal law to protect banks from criminal and civil liability for money laundering. The guidance specifically reminds banks that marijuana continues to be illegal under Federal law.

Although a small number of financial institutions have weighed the prevailing climate of nonenforcement and have decided to shoulder the risk in order to serve the needs of their communities, the majority of financial institutions will not accept the legal, regulatory, or reputational risk associated with banking cannabis-related businesses absent congressional permission to do so. Because Congress has banned marijuana, whether for medicinal or adult use, it will require action by Congress to allow banks to serve this industry.

The SAFE Banking Act Would Help Address the Problem

The bipartisan SAFE Banking Act (S. 1200), which is before the Committee for consideration, would help address this urgent banking problem. The bill specifies that proceeds from a State licensed cannabis business would not be considered unlawful under Federal money-laundering statutes or any other Federal law and directs FinCEN and the Federal banking regulators to issue guidance and exam procedures for banks doing business with cannabis related legitimate businesses. Explicit, consistent direction from Federal financial regulators will provide needed clarity for banks and help them to better evaluate the risks and supervisory expectations for cannabis-related customers.

Although the SAFE Banking Act does not cure all of the cannabis-related banking challenges, it would help the 33 States that have legalized cannabis in some form to make their communities safer, collect their taxes, and regulate their cannabis markets effectively. It would also help banks and their customers in States without legal cannabis regimes by addressing the unintended consequences for unrelated businesses that provide products and services to the cannabis industry, their employees or service providers, without undermining each State’s ability to prohibit cannabis sales and use within their borders.

Summary

ABA supports the SAFE Banking Act and urges the Committee to markup and advance this legislation as soon as possible. Approving a narrow, banking specific remedy will reap immediate public safety, tax, and regulatory benefits without undermining broader deliberations about national drug policy that will take more time.

Thank you for your efforts to address this important issue that has become a challenge for many of our Nation's communities and the banks that serve them. I am happy to answer any questions you may have.

PREPARED STATEMENT OF GARTH VAN METER

VICE PRESIDENT OF GOVERNMENT AFFAIRS, SMART APPROACHES TO MARIJUANA

JULY 23, 2019

Chairman Crapo, Ranking Member Brown, Members of the Committee, thank you for inviting me to testify before you today. My name is Garth Van Meter, and I am the Vice President of Government Affairs for Smart Approaches to Marijuana, a nonpartisan, nonprofit organization dedicated to a public health approach to addiction and recovery. SAM was founded by former Congressman Patrick Kennedy, current editor of *The Atlantic* David Frum, and former senior drug policy advisor to three Administrations, Kevin Sabet. SAM believes no one should be locked up or have the rest of their life ruined just because they got caught with a joint, but we should also not create a new addiction-for-profit industry in the model of Big Tobacco. SAM partners with a wide variety of other organizations, including major medical societies, treatment and recovery advocates, law enforcement groups, AAA, Parent-Teacher Associations, and drug prevention groups to advocate for a public health approach to drug policy.

The Addiction Crisis

The fundamental question before us today is whether we want to promote and increase drug use during an addiction crisis or discourage drug use and help people find recovery and healing. By skipping ahead to a technicality over banking rules, the marijuana industry is hoping to gain many of the benefits of Federal legalization without a debate over the public health effects. But make no mistake, a policy change around banking would have massive public policy and public health ramifications, so we are shirking our duties if we do not consider the full question. The SAFE Banking Act will allow the expansion of an industry pushing new, exponentially more powerful forms of marijuana before any of its health or other societal impacts are fully understood.

Banks currently want to have it both ways: they say they are not taking a position on legalization, but they want to profit from a fabulous new line of business: depositing federally illegal proceeds. I am amazed that no one has called them on it. It is an untenable position. If they want to benefit from the sales of 99 percent potency concentrates, pot candies and gummies, and high potency vapes that are marketed to young demographics through social media influencers using the Juul playbook, they should be consistent and argue to have those things legalized and advertised. But they are not doing that, because they know that their public reputation would take a hit. So instead, they argue that they should participate in what is literally the definition of money laundering for federally illegal proceeds but be held harmless for the damage to public health and public safety.

The Potential Increase of Wide-Spread Investments in the Marijuana Industry

I want to examine two scenarios that could result from the passage of the SAFE Banking Act.

The first is the best-case scenario, and the intended effect of the bill: let's say only State licensed marijuana producers and stores participate in the Federal banking system.

For expert testimony on the purpose of the SAFE Banking Act, I refer you to former Speaker John Boehner's marijuana investing seminar,¹ in which you find these statements, "With traditional investments, only 17½ percent of the money comes from little fish like you and me. The other 82½ percent is from the big players, the major investment firms, hedge funds, pension funds, established corporations. Banking restrictions are preventing almost all of those investment firms and

¹ <https://www.youtube.com/watch?v=CZXGiRcXLJo>

funds from diving head first into cannabis. Well, they're dying to get in. I'm helping some of these bigger fish get ready to invest. There are hundreds of billions of dollars sitting on the sidelines."

The SAFE Banking Act could have been drafted to narrowly address point-of-sale transactions. Instead, the bill is written specifically to allow those "hundreds of billions of dollars sitting on sidelines" to invest. Does anyone think that public health is going to be the driving force behind these multinational corporations who have to report quarterly earnings? For a preview, we need only to look to Canada, where the CEO of a major marijuana corporation was ousted for a single quarter of poor sales, and Altria (formerly Philip Morris) has made a multibillion-dollar investment into the marijuana industry. We should also note that the former CEO of Purdue Pharma—who oversaw all of Oxycontin's deceptive marketing practices—saw his next big business opportunity in leading a marijuana company.

The Influx of Potent Products Into the Market

It's also important that we not deal with this question in the abstract. When you see marijuana on TV, you see fields or warehouses of what everyone assumes is a harmless plant. It looks very innocuous. What they don't show you are the concentrates and extraction systems, because industrial scale extraction looks like something straight out of the television show "Breaking Bad". Yet, concentrates are what they are heavily promoting on social media. For those who have never seen concentrates, I refer you to Appendix A of my testimony, where you can see examples. Marijuana is not just a plant any more. It has been highly processed into something that cannot be found in nature and has a devastating impact on the brain in terms of addiction and mental health. In particular, I refer you to the first page, where you can see a marijuana concentrate called "shatter" from Acreage Holdings, which is former Speaker Boehner's new gig. Notice the name of the marijuana strain: "Thin Mint Girl Scout Cookies". This is a screen shot of their webpage from 2 weeks ago, but it mysteriously vanished when we submitted this picture as a part of written testimony to the House Judiciary Committee.

I also want to address kid-friendly edibles. Under State regulations, the pot gummies on page 2 of Appendix A are not considered kid-friendly. You see, under the marijuana industry's logic, kids are only attracted to gummies in the shape of animals or cartoon characters, not to brightly colored, sugar-coated gummies in the shape of vegetables, geometric shapes, or pot leaves. Washington State got so frustrated with the number of children ending up in emergency rooms from accidental ingestion of pot candies that they were going to ban them completely, but it only lasted a week, and the marijuana industry released their new plan to self-regulate with brightly colored geometric shapes and pot leaves only.

So, that is the best-case scenario, if everything goes according to plan.

The Potential Increase of Cartel Activity

But there is a much darker possibility, and it doesn't require a stretch of the imagination because it is already happening. International cartels have infiltrated legalized States and have used the cover of legalization to conduct massive grow operations, often in upscale, suburban neighborhoods.² The SAFE Banking Act provides a scalable new avenue for these cartels to infiltrate the banking system in a much more systematic way.

For example, I refer you to a letter dated July 19, 2019, from former DEA Administrators and ONDCP Directors who describe a threat that parallels the multibillion-dollar Black Market Peso Exchange, and testimony from Colorado law officer Ernest Martinez that lays out an example of how this would work. These documents can be found in Appendix B of my testimony.

To quote from the letter:

Because cash made from the sale of marijuana looks the same regardless of what it was used to pay for, it will be extremely difficult for banks to know whether large bundles of cash presented for deposit were made from the sale of marijuana rather than from the sale of heroin, fentanyl, or methamphetamine.

In short, the SAFE Banking Act could inadvertently allow cartels to bring into banks duffel bags of cash made from the sale of those illicit drugs that are killing tens of thousands of Americans every year.

And to quote from Lt. Martinez's testimony:

²<https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>; <https://www.pbs.org/newshour/show/how-colorados-marijuana-legalization-strengthened-the-drugs-black-market>

. . . approving the SAFE Banking Act would open more opportunities for money laundering and black-market investors. As one possible example, a cartel would drop off backpacks of cash to a dispensary for deposit, possibly in excess of \$10,000 per transaction, which would be a huge advantage over current constraints. The dispensary would deposit the money in their bank account, and then bill a shell company for “security services,” “cleaning services,” or some other plausible service that would never be performed. Now the money has been returned to cartel control and can be transferred electronically.

Furthermore, Lt. Martinez’s testimony explains why even eliminating cash will never stop pot shops from being targeted for robbery: in the majority of cases, the burglars are there to steal marijuana, not cash. The marijuana is more easily accessed and is extremely valuable in its own right. A marijuana store is more akin to a jewelry store than a convenience store. A recent illustration comes from thieves who backed a pickup truck into a Michigan pot shop, stole all of the marijuana, and then left. They came back 20 minutes later to steal the ATM as an afterthought.³

What This Bill Is Not About

Cannabidiol (CBD) and hemp were federally descheduled through the 2018 Farm Bill, and the FDA is currently conducting a rule-making to ensure public health and safety are taken into account. When USDA issues their expedited rule for hemp growing, hemp growers who operate in accordance with the rule will be fully legal and have full access to banking services. CBD has been demonstrated through FDA clinical trials to have a medicinal benefit for certain childhood seizures.

By contrast, marijuana producers are growing and manufacturing incredibly high potency products that are orders of magnitude stronger than anything available in the Woodstock days. What we think of as marijuana from those days was only 1–3 percent THC and contained a relatively high proportion of CBD, which acted as a neuroprotective agent. Today’s marijuana concentrates can have up to 95 percent THC and no CBD. A recent study found that high potency marijuana has a five-fold higher risk of psychosis.⁴

We often hear that supposedly “47 States have legalized some form of cannabis” and we have to do something to accommodate those States.

First of all, many of those States only created programs for compassionate distribution of nonintoxicating CBD, which was also federally legalized when produced from hemp in the 2018 Farm Bill. It is disingenuous to lump in those States when they now have a pathway to full compliance with Federal law. I disagree that we should be fully legalizing high potency marijuana, but if the other witnesses want to do it, they should follow the path of the Farm Bill and have that debate.

Other States, like New York, Minnesota, Ohio, West Virginia, Pennsylvania, Utah, and Louisiana, have more cautious medical marijuana programs, not allowing it to be smoked, and could conduct research programs that could be converted into legitimate FDA clinical trials with early access programs for suffering people. There is a right way to research and prescribe medicines, and the path is through the FDA.

On the other extreme are States like California, where anyone can qualify for a medical marijuana card under the thinnest of pretexts, and it essentially functions as recreational marijuana for anyone willing to go through minor inconvenience of a pot doctor’s recommendation via a 5-minute Skype session.

And then there are the 10 States that have legalized commercial retail sales for recreational marijuana. These States are doing an abysmal job of regulating the drug, with rampant black markets, out of State diversion, the highest rates of youth use in the Nation, skyrocketing use for 18–24 year olds (when the brain is still developing), and as much as a doubling in fatalities due to marijuana impaired driving.⁵ We should not be expanding that failed experiment to other States.

Indeed, New York, New Jersey, Vermont, Connecticut, New Hampshire, Rhode Island, Delaware, Minnesota, North Dakota, and New Mexico all turned back major pushes to legalize and commercialize recreational marijuana as lawmakers and the public saw the disturbing public health impact of marijuana in legalized States.

³ <http://www.fox2detroit.com/news/local-news/thieves-crash-truck-into-detroit-marijuana-dispensary-steal-pot-atm>

⁴ Di Forti, et al. “The Contribution of Cannabis Use to Variation in the Incidence of Psychotic Disorder Across Europe (EU-GEI): A Multicentre Case-Control Study”. *Lancet Psychiatry*. March 19, 2019. DOI: [https://doi.org/10.1016/S2215-0366\(19\)30048-3](https://doi.org/10.1016/S2215-0366(19)30048-3).

⁵ <https://learnaboutsam.org/wp-content/uploads/2019/06/2019-Lessons-Final.pdf>

Whose Problem Are We Solving?

Today's modern marijuana industry is structured around catering to heavy users. Daily and near daily users consume 87 percent of the marijuana in the State of Colorado.⁶ If you want to be successful in the marijuana business, that's who you have to sell to, and those users have built up a high tolerance and high dependence. LivWell and other businesses have to meet the demand they have created if they want to stay in business versus their competitors. If they don't aggressively market the highest potency products available, someone else will and they will lose market share. Therefore, the business model becomes the highest potency for the cheapest price, and no State has successfully implemented a potency cap. Advancing a business model of creating new instances of substance use disorder during an addiction crisis is grossly irresponsible as a matter of public policy.

We at SAM deal every day with families who have lost loved ones to addiction, and marijuana is a major part if not the defining feature of all of their stories. Contrary to the claims of the marijuana industry and legalization advocates, legalization is not resulting in a reduction in opioid deaths. These claims have been thoroughly debunked in recent studies in the Proceedings of the National Academies of Sciences.⁷ Instead, in a study of 34,000 individuals, marijuana users were discovered to be more than two times as likely to abuse prescription opioids or initiate nonprescription use of opioids.⁸

There is still an opportunity for the other witnesses in the banking industry at this table to wash their hands of the marijuana industry and say, "we want no part of this coming nightmare." But, if they proceed, at least it will be with the full knowledge of what they are investing in: preying on the vulnerable through the marketing of high potency and kid-friendly products, and producing new cases of substance use disorder and serious mental illness.

We can see where this is leading in our neighbor to the north, where Altria, formerly Philip Morris, the manufacturer of Marlboro cigarettes, has made a multibillion-dollar investment into the marijuana industry, paired with an even bigger investment in vaping giant Juul. These investments will have business synergy, as the latest data shows a 63 percent increase in youth vaping of marijuana in Juul-like devices.⁹ It took us over 100 years to reverse the public health impacts of the tobacco industry, who continually cast doubt on public health advocates with industry-funded bunk science. We have an opportunity today not to repeat those mistakes.

⁶Colorado Department of Revenue: Market Size and Demand for Marijuana in Colorado (2017).

⁷Shover et al., "Association Between Medical Cannabis Laws and Opioid Overdose Mortality Has Reversed Over Time". PNAS, Jun 10, 2019. <https://doi.org/10.1073/pnas.1903434116>

⁸<https://www.drugabuse.gov/news-events/news-releases/2017/09/marijuana-use-associated-increased-risk-prescription-opioid-misuse-use-disorders>

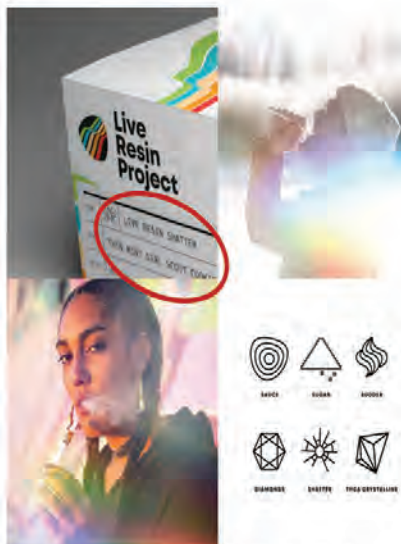
⁹Johnston, L.D., Miech, R.A., Bachman, J.G., Schulenberg, J.E., and Patrick, M.E. (2018). "Monitoring the Future National Survey Results on Drug Use 1975–2018". *Overview, Key Findings on Adolescent Drug Use*. Ann Arbor: Institute for Social Research, University of Michigan.

Smart Approaches to Marijuana (SAM) – Appendix A





Former Speaker John Boehner is on the board of Acreage Holdings and stands to profit \$20 million from the passage of the STATES Act, according to an analysis by the Financial Times.


(<https://www.ft.com/content/7ed13d8a-61e4-11e9-a27a-fdd51850994c>)






- Note the name of the strain: "Thin Mint Girl Scout Cookies."
- Live Resin Shatter is a product marketed by Acreage Holdings, among other high potency marijuana concentrates.
- Note similar social-media advertising style to that which got vaping giant Juul in trouble.


For more examples, please visit <http://bigpotexposed.com>



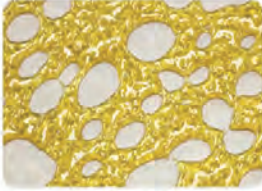











LivWellCannabis @LivWellCanna... · 1d ·

What's your favorite was to dab
#shatter? #howlivwell



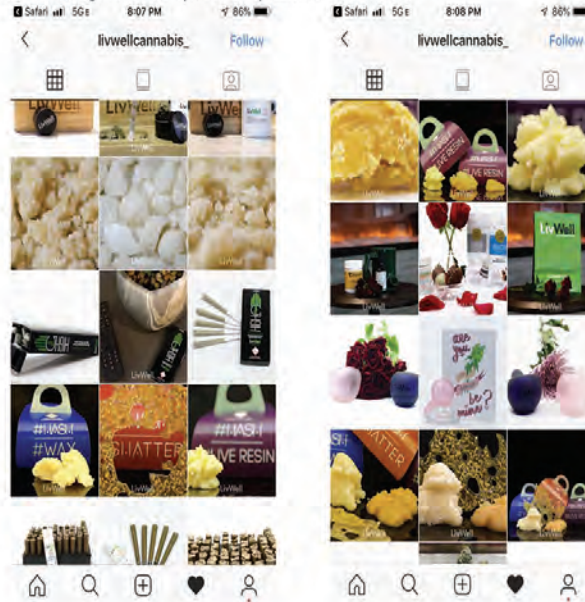
What Are Cannabis Concentrates?

Cannabis concentrates are produced by extracting the cannabinoids and terpenes from cannabis flower in a process that typically employs a solvent, such as butane, propane, or CO2.

The highly potent oil that results from this extraction can then be further refined and processed into a wide variety of products, including wax, shatter, hash, live resin, distillates, oils, and more.

- Marijuana concentrates can have a potency up to 95% THC (the active compound that gets you high).
- By comparison, Woodstock weed was 1-3% THC.
- Marijuana also now comes in many kid-friendly forms like candies and gummies.

LivWell Instagram account prominently features concentrates:



More on concentrates:

LivWell

Highly Potent Products

As the name suggests, concentrates are highly concentrated forms of cannabinoids, with potencies reaching as high as 95% THC. The effects of concentrates are felt almost immediately after inhalation. Due to the high potency of concentrate products, it is highly recommended consumers start with a low dose and take it slow.

The Wide World of Cannabis Concentrates

Cannabis concentrates come in a wide variety of forms, from wax and shatter to live resin and distillate. Discover your favorite type of concentrate.

With so many different concentrate brands and products to choose from, it can be difficult deciding where to start. Let our highly educated budtenders guide you as you explore our curated selection of concentrate products.

LivWell

#HASH #SHATTER

EXTRACTED TO PERFECTION IN OUR VERY OWN LIVWELL LAB.

\$20G

Concentrates for the discerning cannabis enthusiast, our highly-trained extraction technicians employ scientific and innovative techniques in order to deliver

Message

Smart Approaches to Marijuana (SAM) – Appendix B

- Letter from Former ONDCP Directors (“Drug Czars”) and former DEA Administrators expressing concern about cartel infiltration of the banking system through the SAFE Banking Act
- Written testimony from Denver, CO law officer Ernest Martinez discussing how thieves target marijuana stores for product, not for cash, and how cartels might abuse the SAFE Banking Act

July 19, 2019

<p>The Honorable Mike Crapo Chairman U.S. Senate Committee on Banking, Housing, & Urban Affairs 534 Dirksen Senate Office Building Washington, D.C. 20510</p>	<p>The Honorable Sherrod Brown Ranking Member U.S. Senate Committee on Banking, Housing, & Urban Affairs 534 Dirksen Senate Office Building Washington, D.C. 20510</p>
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Dear Chairman Crapo and Ranking Member Brown,

We write as former Directors of the Office of National Drug Control Policy and former Administrators of the Drug Enforcement Administration to warn about the unintended consequences of the SAFE Banking Act to legalize the banking of federally illegal proceeds from the sale of marijuana.

Some Members of your Committee may be familiar with the Black Market Peso Exchange that has been in operation for several decades. This scheme has enabled international drug cartels to launder billions of U.S. dollars through international monetary exchanges and has ensnared many banks and mainstream U.S. companies.

The lesson that the Black Market Peso Exchange teaches us is that cartels will go to enormous lengths and use sophisticated and complex methods to move cash into banks—since laundering money is the life-blood of criminal organizations. It is therefore a virtual certainty that cartels will seek to exploit the SAFE Banking act if it provides them with an easier and more cost-effective means to launder their money.

Because cash made from the sale of marijuana looks the same regardless of what it was used to pay for, it will be extremely difficult for banks to know whether large bundles of cash presented for deposit were made from the sale of marijuana rather than from the sale of heroin, fentanyl, or methamphetamine.

In short, the SAFE Banking Act could inadvertently allow cartels to bring into banks duffel bags of cash made from the sale of those illicit drugs that are killing tens of thousands of Americans every year.

Consider the current landscape of offering banking services to cash-intensive marijuana businesses. Even if customers are offered the opportunity to pay in credit, many customers will choose to pay cash to avoid being tracked within the state seed-to-sale tracking system.

While banks know how much cash to expect from other cash-intensive businesses like dry cleaners or convenience stores, it will be very difficult to figure out when a marijuana dispensary is participating in a money laundering scheme. The scale of the marijuana industry is already such that there are huge opportunities for these dispensaries to be the destination for cartel cash. Indeed, we have already seen many cases of cartels using the cover of legalization to operate

illicit marijuana grows and black market activity. Two recent examples within the past year involved organized efforts to expel Mexican drug cartels growing marijuana in Northern California¹—including a request to use the California National Guard², and the May 2019 bust of the largest international drug trafficking organization in Colorado law enforcement history, with over 80,000 plants in over 250 locations and 4.5 tons of finished marijuana products³.

We urge the Senate Banking Committee to reject the SAFE Banking Act and other legislation that would give these cartels more cover and more access to the U.S. financial system.

Sincerely,

Mr. R. Gil Kerlikowske
Former Director
May 7, 2009 to March 6, 2014
Office of National Drug Control Policy

Ms. Michele M. Leonhart
Former Administrator
November 10, 2007 to May 14, 2015
Drug Enforcement Administration

Mr. John P. Walters
Former Director
December 7, 2001 to January 20, 2009
Office of National Drug Control Policy

Ms. Karen P. Tandy
Former Administrator
July 31, 2003 to November 9, 2007
Drug Enforcement Administration

General Barry R. McCaffrey, USA (Ret.)
Former Director
February 29, 1996 to January 20, 2001
Office of National Drug Control Policy

Mr. John C. Lawn
Former Administrator
July 26, 1985 and March 23, 1990
Drug Enforcement Administration

Mr. Lee P. Brown
Former Director
July 19, 1993 to January 1996
Office of National Drug Control Policy

Mr. Peter B. Bensinger
Former Administrator
February 23, 1976 to July 10, 1981
Drug Enforcement Administration

Mr. Robert Martinez
Former Director
March 28, 1991 to January 20, 1993
Office of National Drug Control Policy

Mr. William J. Bennett
Former Director
March 13, 1989 to December 13, 1990
Office of National Drug Control Policy

¹ <https://www.justice.gov/usao-edca/pr/us-attorney-joins-forces-federal-state-and-local-leaders-and-experts-combat-devastating>

² <https://www.gov.ca.gov/wp-content/uploads/2019/02/2.11.19-Letter.pdf>

³ <https://www.justice.gov/usao-co/pr/fifty-two-individuals-arrested-one-largest-black-market-marijuana-takedowns-colorado>

Testimony of

Ernest Martinez

Director At Large of the National Narcotic Officers' Associations' Coalition (NNOAC)

July 19, 2019

My name is Ernest Martinez, and I serve as Director At Large of the National Narcotic Officers' Associations' Coalition (NNOAC). I have also been a Lieutenant in the Denver Police Department serving the citizens of Denver for over 33 years. I have served for 17 years as an undercover narcotics Detective and Detective-Sergeant, serving from Street-Level Enforcement Teams, (including the Denver-Aurora Crack Task Force), to the Elite Major Peddler Unit. I was the first task force supervisor with the Front Range Task Force of the Rocky Mountain HIDTA Enforcement Center, and was instrumental in its design and development. Prior to the Denver Police Department, I was a member of the Denver Sheriff's Department for 3 years as a Deputy Sheriff, with a total of 36 years wearing the badge for the City and County of Denver.

I am writing to submit testimony to the Committee on the SAFE Banking Act of 2019.

Section 1 (b) of the SAFE Banking Act states, "The purpose of the Act is to increase public safety by ensuring access to financial services to cannabis-related legitimate businesses and service providers and reducing the amount of cash at such businesses."

Through my experience in Colorado law enforcement, I have found that the burglaries and robberies are not primarily due to the availability of large amounts of cash on hand but the amount of marijuana in the business. High-potency marijuana, and particularly concentrates, are extremely valuable for resale on the black market. Licensed marijuana businesses are required to notify the Colorado Marijuana Enforcement Division (MED) and local law enforcement any time there is a burglary or robbery. The majority of the reported cases are for loss of product. Surveillance cameras with DVR recorders cover all areas of the marijuana business and operate 24/7. Recordings are required to be kept for a minimum of 40 days. The SAFE Banking Act would not address the loss of product since any money is kept in a safe located in a locked and secure room and is often not accessed by burglars.

The justification for the SAFE Banking Act claims marijuana businesses do not have banking accessibility is misleading in my experience. Shannon Gray, marijuana communications specialist at the Colorado Department of Revenue stated in an article dated May 30, 2019, "We do hear from licensees that the majority of businesses have access to banking services."¹ The article also noted that Safe Harbor Services, a wholly owned subsidiary of Partner Colorado Credit Union, has been helping credit unions and banks in about 10 states to create systems and procedures for managing cannabis accounts.

In addition, approving the SAFE Banking Act would open more opportunities for money laundering and black-market investors. As one possible example, a cartel would drop off backpacks of cash to a dispensary for deposit, possibly in excess of \$10,000 per transaction, which would be a huge advantage over current constraints. The dispensary would deposit the money in their bank account, and then bill a shell company for "security services," "cleaning services," or some other plausible service that would never be performed. Now the money has been returned to cartel control and can be transferred electronically.

If banking services are already being utilized in Colorado and several other states, and the threat of burglary and robbery is loss of product and not money, then there must be another reason marijuana businesses are pushing for the SAFE Banking Act. Indeed, this bill has a much wider purpose to allow out-of-state hedge funds to pump billions of dollars of investments into the marijuana industry. This is a very intentional step to the full federal legalization of marijuana and eventually other drugs. Denver has recently approved the "lowest level priority for enforcement" (for adult possession under an ounce) of Psilocybin ("Magic Mushrooms"). Oakland and other cities in California are following suit. Where does this stop? Where is the common sense?

As a long-time member of Colorado law enforcement, currently experiencing the drug induced psychosis of vulnerable populations in the Denver-metro area due to normalization of mind-altering substances, it is my opinion from all that I have seen, the number one priority should be that more research is accomplished regarding the effects of marijuana use, as well as

¹ <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/05/30/cannabis-banking-bill-may-falter-again-despite-state-support>

educating the public regarding the real issues with regards to the legalization of marijuana. The marijuana lobby does not want either.

Thank you.

PREPARED STATEMENT OF JOHN LORD
CEO AND OWNER, LIVWELL ENLIGHTENED HEALTH

JULY 23, 2019

Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for providing me the opportunity to share my perspective on the issue of banking in the cannabis industry. It is truly an honor. My name is John Lord and I am the owner and CEO of LivWell Enlightened Health, a vertically integrated cultivator, manufacturer, and retailer of cannabis products under the laws of Colorado. LivWell is one of the largest cannabis companies in Colorado, with more than 600 employees and approximately \$100 million in annual revenue. Yet because of the current status of the law, we are forced to operate as an all-cash business.

Overview of LivWell, CTF, and the Cannabis Industry

I am here today representing not only LivWell but also the Cannabis Trade Federation, for which I am currently the chair of the Board of Directors. CTF is a national coalition of cannabis-related businesses dedicated to professionalizing, diversifying, and unifying the cannabis business community. Our members are some of the most successful and responsible operators in the U.S. cannabis market today, generating billions of dollars in sales while navigating and complying with regulations that are not only comprehensive in scope, but vary significantly from State-to-State. Our board is comprised of companies that cover the full range of the cannabis supply chain. We also have ancillary companies that focus on technology and others that provide supplies, such as Scotts Miracle-Gro, which launched a cannabis-focused subsidiary, Hawthorne Gardening Company, in 2014.

Our industry has experienced a remarkable transformation over the past decade. What started with caregivers and cooperatives primarily providing raw flower products to qualifying patients has now evolved into an industry that provides an incredibly broad range of products to millions of patients and nonpatients alike. Altogether, 33 States, the District of Columbia, and numerous U.S. territories have passed effective medical cannabis laws and 11 of those States, DC, and two territories have made cannabis legal for all adults. Nationally, the Marijuana Business Daily's Annual Fact Book estimates State-legal cannabis sales will exceed \$12 billion in 2019. Included in that overall sales figure are flower products; oils for vaporization; edible products, such as fine chocolates and infused beverages; topical products, from salves to lotions to transdermal patches; and other products, like tablets, capsules, and tinctures. Our company alone now has 19 stock keeping units (SKUs) on the production side and close to 400 SKUs available overall at our retail outlets. For those of you who have not seen the cannabis market in person and only have imagined what it is like, I strongly encourage you to visit Colorado to see it for yourself. You will see that while cannabis is a truly unique product, the industry itself operates like any other industry.

Before telling you more about my experience at LivWell, I wanted to share a bit about my background as a businessperson. As you may have detected, I was born in New Zealand where I was a dairy farmer until I found the next chapter of my professional life. I moved into importation, manufacturing and wholesale of child safety seats and baby products, ultimately selling my products in over 30 countries, including the United States. I moved to Denver, Colorado, in 1998 as I began sales to Walmart, Toys R Us, JCPenny, among other retail outlets. With the commute from New Zealand being challenging and because I love the United States, I became an American citizen in March 2007. My company prospered, and in 2008, I sold it to a public company. However, I quickly found I was not suited to retirement and began looking for my next venture just as the medical cannabis industry was getting off the ground in Colorado. With my experience in manufacturing, compliance, and warehouse management, I believed I could succeed by applying my general business acumen and by bringing professionalism to this new field.

The past decade has been an adventure to say the least. In many ways, my company and the industry have grown up together. In 2009, we began with a small warehouse for cultivation and opened a dispensary under the provisions of the Colorado Constitution, serving the medicinal needs of a few hundred medical marijuana patients. In 2010, State policy makers decided that the system needed to be regulated and controlled, and the Colorado General Assembly passed the world's first law to establish an open but regulated market for the production and sale of cannabis products. I was very supportive of that law and embraced the opportunity to expand our operations in strict accordance with the rules and regulations established by the State. We gradually increased our cultivation space and opened additional dispensaries across the State. After the voters of Colorado legalized cannabis for all adults in 2012, our facilities became dual-use—for both medical and what we

call “adult-use” cannabis—in 2014. Today, we manage 15 retail stores in Colorado with each store averaging close to \$20,000 per day in transactions and serve approximately 4,500 people per day.

The Impact and Challenges Current Federal Banking Laws Place on LivWell and Other Companies Operating in The Cannabis Industry

But our evolution as a company has not always been smooth. And the greatest reason for that is the lack of reliable access to traditional banking services. Due to the dichotomy between State and Federal laws, banks and credit unions have been reluctant to serve cannabis businesses or have refused to do so altogether. In some cases, banks that were willing to work with cannabis companies were discouraged or prevented from doing so by their regulators. As a result, we have frequently struggled to obtain and maintain bank accounts with egregiously high fees. At one point, the amount of cash we had on hand created such a security issue that I rented out a former bank building just so that I could use the vault to store cash. Another time, I had no choice but to travel to the Internal Revenue Service office in Denver with more than \$3 million in cash in order to send the Federal Government our taxes from our State-legal cannabis business. It took more than 3 hours for them to count it all! Due to the large volume of cash coming in from the industry overall, the Denver IRS office actually had to modify the openings in their teller windows and purchase money counters.

Over our 10 years of operations, we have had accounts closed at over a dozen financial institutions. As you can imagine, this is incredibly disruptive. Imagine running a manufacturing, wholesale, and retail operation with hundreds of employees and having to make all payments, including payroll, in cash. It is difficult and, frankly, it is dangerous. This is something hundreds, if not thousands, of State-legal cannabis companies have had to struggle with. And not just business accounts are affected. Financial institutions often close personal accounts of owners and even the accounts of family members. I have had personal accounts closed, along with my senior staff, as well as mortgages and car loans denied. In addition, my Chief Financial Officer served on a regional bank’s board of directors, and due to his association with LivWell, was asked to resign.

While our company now has a more stable banking relationship, we are still far too dependent on cash. The status of cannabis and banking at the Federal level has resulted in credit card companies refusing to process transactions for cannabis stores. So we are forced to take cash from customers and then have that cash collected by armored car so that it can be deposited with our bank. There are risks and hazards throughout this process. And, of course, this situation is not unique to our company. It affects every cannabis business in the country. Although the required security systems and equipment at cannabis facilities are extensive, we still must worry about theft and armed robberies. During one such robbery attempt in 2016, a security guard at a dispensary in Aurora, Colorado, who was a Marine Corps veteran, was shot and killed. Passage of the SAFE Banking Act could prevent similar tragedies from occurring in the future.

I would note that the news about cannabis banking is not all bad. Notwithstanding the fact that the Department of Justice rescinded several memoranda regarding cannabis enforcement in January 2018, the Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) has maintained its 2014 guidance titled “BSA Expectations Regarding Marijuana-Related Businesses.” As FinCEN explained, the “guidance clarifies how financial institutions can provide services to marijuana-related businesses consistent with their BSA obligations, and aligns the information provided by financial institutions in BSA reports with Federal and State law enforcement priorities.” Of course, from a law enforcement perspective, this makes eminent sense as it is always easier for law enforcement to detect illicit activity if the proceeds of that activity are run through the regulated banking system. Under the FinCEN guidance there has been a steady increase in the number of financial institutions serving cannabis businesses. Data released by FinCEN last month showed that more than 633 financial institutions had filed marijuana-related businesses suspicious activity reports in the first quarter of 2019, indicating some level of interaction with the industry. This was an increase of more than 50 percent over the end of the first quarter of 2018.

But this access to financial institutions comes at a steep cost. As I mentioned above, due to the significant compliance costs associated with serving cannabis customers under existing policies, financial institutions charge cannabis businesses substantial monthly fees. Our company pays in excess of \$3,000 per month for the mere privilege of having an account. The current situation is especially challenging for small businesses. While we, due to our size, are able to absorb the additional costs associated with cash management and exorbitant bank fees, many small busi-

nesses are not. Furthermore, resolving the banking issue could significantly aid cannabis businesses in securing business loans. This is critical to small business owners who may not have access to other sources of capital. It should be noted that these small businesses are also being squeezed by Section 280E of the Internal Revenue Code, which prevents all cannabis companies from deducting standard business expenses when they calculate their taxes. If there is any hope in helping small businesses—including minority- and women-owned companies—survive and thrive, we must fix the banking situation and amend Section 280E so that cannabis businesses are taxed like any other business.

Thank you again for inviting me here today. I look forward to answering your questions.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM RACHEL PROSS**

Q.1. Many community banks and credit unions want guidance from the Federal financial regulators to help them navigate cannabis banking issues, and you indicated in your testimony that your credit union is using the FinCEN guidance to service the cannabis industry. What additional guidance should the Federal banking agencies issue on how institutions can provide services to cannabis-related businesses?

A.1. Thank you for the question, Senator Brown. You asked what additional guidance the Federal banking agencies should issue on how institutions can provide services to cannabis-related businesses.

At Maps Credit Union, we believe that the most important Federal action on this issue must come from Congress and not regulators. Specifically, in order to effectively provide services to cannabis-related businesses, financial institutions must have the type of clarity provided by the SAFE Banking Act in order to ensure the propriety of their actions. With respect to regulatory action, Maps Credit Union believes that FinCEN's BSA Expectations Regarding Marijuana-Related Businesses, or FinCEN Guidance, is an adequate regulatory framework to operate within in order to serve the cannabis industry. The FinCEN Guidance clearly lays out how to report cannabis-related financial activity running through our organization, and it specifies how to escalate reporting in the event that we are suspicious of unlawful activity. We do not feel the FinCEN Guidance is lacking in clarity, and we have operated successfully under that framework for the last 5 years.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED
FROM RACHEL PROSS**

Q.1. What is the single biggest risk that we face if nothing is done to address the challenges facing cannabis and banking?

A.1. Thank you for these questions, Senator Reed. You asked the single biggest risk that we face if nothing is done to address the challenges facing cannabis and banking.

I think the single biggest risk is having a multibillion-dollar industry operating in a cash-based underground economy. Without providing cannabis businesses with access to transparent and traditional financial institution relationships, our Federal, State, and local governments have no information on cannabis-related financial activity in the United States. This can lead to tax evasion, money laundering, diversion into other States or countries, and numerous other serious safety and crime-related concerns stemming from a cash-based system. Furthermore, there exists a host of unscrupulous third-party payment-related vendors who are seeking to benefit from the current vacuum in traditional financial services for cannabis businesses in our Nation. These vendors bombard cannabis businesses with promises of a fix to the cash-only issue, and the "solutions" they offer are very often clearly a form of money laundering. Such backdoor systems do nothing to aid law enforcement, and they further push cannabis businesses into a hidden economy.

Q.2. What is the single biggest benefit that we are likely to realize if we are able to address the challenges facing cannabis and banking?

A.2. Senator Reed, you asked what the single biggest benefit is that we are likely to realize if we are able to address the challenges facing cannabis and banking.

The single biggest benefit will be an increase in financial institutions who are willing to serve the cannabis sector. This will result in financial transparency, compliance with guidance from the U.S. Treasury, community safety stemming from the removal of millions of dollars in cash off the streets, and the dissemination of vital data and statistical information and economic trends to law enforcement and Government officials.

Q.3. A critical part of addressing the challenges facing cannabis and banking is ensuring that our anti-money-laundering laws remain robust and that our law enforcement officials are still able to enforce the law and deter criminals. What specifically needs to be done to ensure these priorities?

A.3. Senator Reed, you asked what specifically needs to be done to ensure the priorities of robust anti-money-laundering laws and the ability of law enforcement officials to still enforce the law and deter criminals.

I believe the best way to ensure that our law enforcement officials are still able to enforce the law and deter criminals under robust anti-money-laundering laws is to keep the U.S. Treasury's FinCEN Guidance in place as a regulatory framework for financial institutions to follow. As a practitioner of cannabis banking, I can emphatically state that the FinCEN Guidance is and will continue to be vital to financial institutions lawfully serving cannabis businesses, even under the legal protection of the SAFE Banking Act, in order to meet all compliance obligations of the Bank Secrecy Act and anti-money-laundering law. The FinCEN Guidance is an essential rulebook for appropriately monitoring and maintaining cannabis business accounts. Without it, Maps Credit Union would not be serving the cannabis industry at all.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM RACHEL PROSS

Q.1. The Federal prohibition of marijuana continues to create significant harm for communities across the country. However, as dozens of States—including Massachusetts—have implemented their own marijuana laws, there are still significant barriers posed by these outdated Federal laws.¹

This includes the inability of financial institutions to allow marijuana businesses acting in compliance with State laws access to banking services. Forcing these businesses to operate entirely in cash presents a dangerous public safety concern that Federal policymakers must swiftly address. That is why I am a cosponsor of the SAFE Banking Act, commonsense legislation that would help

¹National Conference of State Legislatures, "State Medical Marijuana Laws", <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>.

resolve this important issue for these marijuana businesses and the ancillary businesses that support them.²

I'm also the lead sponsor of the STATES Act—bipartisan, bicameral legislation with Senator Gardner that would protect States, territories, and tribal Nations from Federal interference as they determine their own marijuana laws.³ This bill addresses the financial issues caused by Federal marijuana laws by clearly stating that compliant transactions are not trafficking and do not result in proceeds of an unlawful transaction. It has been endorsed by organizations such as the American Bankers Association, Cooperative Credit Union Association, Credit Union National Association, Massachusetts Bankers Association, and others representing financial institutions.

Finally, I support efforts to legalize marijuana by removing it from the list of controlled substances under the Controlled Substances Act. While this action will have important and wide-reaching implications, it will also provide the fullest resolution to the marijuana banking issues that the Senate Banking Committee is discussing today.

As Congress explores legislative action, it is important that we consider ways to support legal marijuana businesses and their consumers—including medical marijuana patients—as soon as possible.

Do you believe that our current marijuana laws that force marijuana businesses to operate as cash-only enterprises pose a public safety risk? Do you believe that they hinder economic growth?

A.1. Thank you for these questions, Senator Warren. You asked if I believe that our current marijuana laws that force marijuana businesses to operate as cash-only enterprises pose a public safety risk, and you asked if I believe that they also hinder economic growth.

I received a similar question from Senator Cortez Masto, and I'd like to quote my response here. In summary, yes, I do believe that having a multibillion-dollar industry operate primarily in cash is an immense public safety risk and hindrance to economic growth. As I stated in response to Senator Cortez Masto, "Unbanked or underbanked individuals and businesses live with great risk of robbery or violence, and communities also suffer as a result. A 2015 analysis by the Wharton School of Business Public Policy Initiative found that, in the absence of being banked, one in every two cannabis dispensaries were robbed or burglarized—with the average thief walking away with anywhere from \$20,000 to \$50,000 in a single theft. Here at Maps, we have heard anecdotal evidence of this very thing. We had one cannabis business experience a frightening robbery on a Sunday, and the business owners opened an account with Maps 5 days later to remove cash from their location. One cannabis business owner who banks with Maps, with 24 licensed businesses, commented that his employees used to be terrified to leave their stores on payday, because they had to walk out carrying 2 weeks' wages in cash. He was ecstatic about being able

²Secure and Fair Enforcement Banking Act, S. 1200, <https://www.congress.gov/bill/116th-congress/senatebill/1200>.

³Strengthening the Tenth Amendment Through Entrusting States Act, S. 1028, <https://www.congress.gov/bill/116th-congress/senate-bill/1028>.

to offer them direct deposit now because of having accounts at Maps. It isn't very often, in this modern day and age, that someone is ecstatic about something as basic and simple as direct deposit, but this is the world that cannabis businesses and their employees live in."

As for economic growth, I believe that lacking access to mainstream financial services simply makes it difficult for businesses to operate. Unbanked cannabis businesses face barriers that other types of businesses do not even need to consider: paying taxes in cash, paying employees in cash, paying vendors in cash, tracking expenses and inventory purchases manually without the benefit of bank statements or check copies or point-of-sale receipts for reference . . . the list goes on. They also lack access to capital because, without legislation like the SAFE Banking Act, financial institutions generally will not lend to the cannabis sector due to the risk of collateral loss. Without basic financial services such as deposit accounts and business loans, cannabis businesses must overcome significant barriers, hindering growth and limiting the positive economic impact of a multibillion-dollar industry in local communities across our Nation.

Q.2. You represent a financial institution that provides banking services in a State that has legalized marijuana for medical and recreational purposes. Can you please describe in detail the decision-making process in determining whether you would provide these services to State-legal marijuana businesses?

A.2. Senator Warren, you asked if I can describe in detail the decision-making process in determining whether Maps Credit Union would provide these services to State-legal marijuana businesses.

The volunteer, member-elected Board of Directors of Maps Credit Union voted to serve the cannabis industry in 2014 for two main reasons: community safety (removing cash from the streets) and serving an underserved industry—which is truly in the "DNA" of credit unions as community-based, not-for-profit financial cooperatives. The Board vote was not unanimous, but they have maintained a strong and united front regarding the outcome of that "yes" vote. Before making the decision, the Board evaluated a legal opinion of the risk involved in serving the cannabis industry given the Federal status, and they extensively reviewed the FinCEN Guidance and the DOJ's Cole Memo, which was in place at the time. The Credit Union's legal counsel spent a great deal of time visiting with cannabis businesses to better understand their operations and banking needs, and this information was also reported to the Board for consideration.

To help mitigate legal and compliance risk, the Board determined that the Credit Union would invest in a holistic risk infrastructure with a designated executive leader to ensure that the compliance for the cannabis banking program was top-notch. The Board realized that our cannabis banking program would be one of the first of its kind in the United States, so they emphasized the need to "set the bar" and ensure that we operated transparently and in full compliance with the FinCEN Guidance from U.S. Treasury. Lastly, the Board evaluated liquidity risk and ensured that the Credit Union had a documented exit strategy to deploy in the

event of a change in Federal prosecutorial priorities, and they also placed limits on the cannabis banking program's size in order to ensure that cannabis-related funds could be divested of very quickly in the event of a change at the Federal level. This protects the Credit Union from deposit concentration risk and from a liquidity crisis should the program need to be shuttered.

Q.3. Please describe any challenges your financial institution faces in providing these services to marijuana businesses due to current Federal laws, including any regulatory barriers.

A.3. Senator Warren, you asked me to describe any challenges Maps Credit Union faces in providing these services to marijuana businesses due to current Federal laws, including any regulatory barriers.

Serving the cannabis industry is complex and labor-intensive, but our Credit Union believes it is worth the work, because it speaks to our mission and helps keep our community safe. Our biggest concern is that, without a legal safe harbor at the Federal level for serving the cannabis industry, we run the risk of being prosecuted for Federal money laundering. On a personal level, it is truly difficult for me as a Chief Risk Officer to put so much effort into a program that is serving local Oregon businesses in a fully transparent and fully compliant manner, while knowing that a simple change in prosecutorial priorities could risk my freedom at worst and my financial future as a working mom at best. We need a Federal solution to remove this risk for financial institutions, and financial institution professionals like myself, allowing us to transparently serve State-sanctioned cannabis businesses in accordance with FinCEN Guidance without worrying about Federal prosecution for doing our jobs. Thank you for your efforts in cosponsoring the SAFE Banking Act.

Q.4. Please describe any services, if any, that you provide to ancillary marijuana businesses (e.g., legal or security firms, food safety businesses, real estate) and any challenges you face in providing such services.

A.4. Senator Warren, you asked me to describe any services that Maps Credit Union provides to ancillary marijuana businesses, such as legal or security firms, or food safety or real estate businesses, and any challenges we face in providing such services.

Maps Credit Union does provide banking services to ancillary marijuana businesses, such as landlords, garden stores, real estate investment enterprises, and others. These businesses do not require the same SAR filing frequency as direct "plant-touching" cannabis businesses, in the FinCEN Guidance⁴ (quoted below and

⁴FinCEN recognizes that a financial institution filing a SAR on a marijuana-related business may not always be well-positioned to determine whether the business implicates one of the Cole Memo priorities or violates state law, and thus which terms would be most appropriate to include (i.e., "Marijuana Limited" or "Marijuana Priority"). For example, a financial institution could be providing services to another domestic financial institution that, in turn, provides financial services to a marijuana-related business. *Similarly, a financial institution could be providing services to a nonfinancial customer that provides goods or services to a marijuana-related business (e.g., a commercial landlord that leases property to a marijuana-related business). In such circumstances where services are being provided indirectly, the financial institution may file SARs based on existing regulations and guidance without distinguishing between "Marijuana Limited" and "Marijuana Priority."* Whether the financial institution decides to provide indirect services to a marijuana-related business is a risk-based decision that depends on a number of

highlighted [Ed. italicized] regarding ancillary businesses, specifically), but we do monitor these accounts quite carefully and consider them high-risk accounts under our organization's Bank Secrecy Act risk profile.

Q.5. What has the community response been, if any, to your financial institution providing banking services to legitimate marijuana businesses?

A.5. Senator Warren, you asked what the community response has been to Maps Credit Union providing banking services to legitimate marijuana businesses.

The community response to our efforts in serving legitimate marijuana businesses has been overwhelmingly positive. There were some early murmurs in the media about a local credit union "secretly" serving the cannabis sector, but the resulting commentary from the community was a rallying cry of support. One commenter expressed disbelief that a news outlet would post a story that essentially stated, "A financial institution in Oregon is providing financial services to legal businesses in Oregon," and the commenter punctuated his response by saying, "Must be a slow news day." That seems to be the sentiment of the vast majority of those we speak with. At Maps Credit Union, we understand that the cannabis legalization issue is controversial, but the voters of our State have made their wishes clear. Our duty now is to serve that sector and assist those businesses with accessing the mainstream economy. I believe the majority of our community members understand that and support our efforts. To further mitigate reputation risk, the cannabis banking program at Maps keeps separate financials and, from its outset, the Board mandated that the program must pay for itself. That way, credit union members at large—particularly those who do not support the cannabis industry—are not having their resources utilized to pay for cannabis banking services and the necessary supportive infrastructure.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM RACHEL PROSS

Q.1. During your testimony, you discussed your credit union's interactions with FinCEN and Suspicious Activity Reports (SARs). Can you describe your credit union's role in working with State and local law enforcement, if any?

A.1. Thank you for these questions, Senator Cortez Masto. You asked if I can describe my credit union's role in working with State and local law enforcement.

One of the things Maps Credit Union (Maps) takes great pride in is our collaboration with law enforcement. Prior to serving the cannabis industry, Maps filed less than 50 Suspicious Activity Reports (SARs) per year. Since January 2017, however, Maps has filed nearly 3,500 SARs, with approximately 3,200 of them being directly related to the cannabis industry. This is vital data that law enforcement would not otherwise have if we were not serving this sector. SARs include a detailed export of every single financial

factors specific to that institution and the relevant circumstances. In making this decision, the institution should consider the Cole Memo priorities, to the extent applicable[.]

transaction on a cannabis business account for the reporting period, allowing law enforcement to identify trends and investigate any activity that could indicate a crime has taken or is taking place. Additionally, Maps files thousands of Currency Transaction Reports (CTRs) per year on cash transactions aggregating to over \$10,000 in a single business day. Again, this is vital data for law enforcement. Our ongoing monitoring of these accounts also ensures that worrisome activity is promptly reported, giving law enforcement the benefit of early indication.

Q.2. Outside of the SARs process, how does law enforcement benefit from the information you collect on your account holders?

A.2. Senator Cortez Masto, you asked how, outside of the SAR process, law enforcement benefits from the information Maps Credit Union collects on our account holders.

CTRs also provide substantial benefit to law enforcement, particularly because the cannabis sector operates primarily in cash. CTR data informs law enforcement of every cash transaction or series of cash transactions aggregating to over \$10,000 in a single business day. This helps law enforcement track business activity that would otherwise be in an underground, unreported economy.

Q.3. If Congress passed legislation, such as the SAFE Banking Act, do you think financial institutions and law enforcement would have the tools needed to find and investigate money laundering and other financial crimes?

A.3. Senator Cortez Masto, you asked if I think financial institutions and law enforcement would have the tools needed to find and investigate money laundering and other financial crimes, if Congress passed legislation such as the SAFE Banking Act.

Yes, I think that the SAFE Banking Act would provide substantial benefit to both financial institutions and law enforcement. By removing the enormous legal risk of serving the cannabis sector, more financial institutions would open their doors to cannabis businesses. Each of those financial institutions would be filing SARs and CTRs, and this would increase the volume of data being reported to FinCEN. Additionally, each of those financial institutions would be implementing their own Bank Secrecy Act and Anti-Money-Laundering programs, and financial institution staff would be trained to identify and report indicators for money laundering and other financial crimes. Upon suspicion of activity that would trigger a SAR, and barring unusual circumstances, the activity is reported within 30 days. Finally, bringing an all-cash industry into a transparent financial relationship means attaining data that would otherwise be lost to the underground, unregulated, unreported, hidden economy.

Q.4. Do you believe there are additional tools we should provide to financial institutions that work with cannabis businesses in order to better assist law enforcement?

A.4. Senator Cortez Masto, you asked if I believe that there are additional tools lawmakers should provide to financial institutions that work with cannabis businesses in order to better assist law enforcement.

I feel that the FinCEN Guidance is adequate to assist law enforcement, as SARs allow a financial institution to communicate with law enforcement about suspected financial crime without running afoul of privacy law.

Q.5. According to the FDIC's 2017 survey of unbanked and underbanked individuals, 6.1 percent of Nevadans were unbanked. And Nevada has one of the highest rates of underbanked citizens in the country—more than 1 in 4 Nevadans were underbanked. Can you discuss any harms or risks associated with a large population of unbanked and underbanked individuals, particularly those in the cannabis industry who are already being paid in cash?

A.5. Senator Cortez Masto, you asked if I could discuss any harms or risks associated with a large population of unbanked and underbanked individuals, particularly those in the cannabis industry who are already being paid in cash.

Unbanked or underbanked individuals and businesses live with great risk of robbery or violence, and communities also suffer as a result. A 2015 analysis by the Wharton School of Business Public Policy Initiative found that, in the absence of being banked, one in every two cannabis dispensaries were robbed or burglarized—with the average thief walking away with anywhere from \$20,000 to \$50,000 in a single theft. Here at Maps, we have heard anecdotal evidence of this very thing. We had one cannabis business experience a frightening robbery on a Sunday, and the business owners opened an account with Maps 5 days later to remove cash from their location. One cannabis business owner who banks with Maps, with 24 licensed businesses, commented that his employees used to be terrified to leave their stores on payday, because they had to walk out carrying 2 weeks' wages in cash. He was ecstatic about being able to offer them direct deposit now because of having accounts at Maps. It isn't very often, in this modern day and age, that someone is ecstatic about something as basic and simple as direct deposit, but this is the world that cannabis businesses and their employees live in.

Q.6. Do you believe employees of marijuana businesses, or marijuana-related businesses are more likely to be unbanked or underbanked?

A.6. Senator Cortez Masto, you asked if I believe that employees of marijuana businesses, or marijuana-related businesses, are more likely to be unbanked or underbanked?

Yes I do, and I have seen the evidence of that first-hand, as Maps regularly receives new account requests from employees of cannabis businesses, and employees of cannabis-related businesses, who have had their accounts closed at other financial institutions.

Q.7. Does the current FinCEN guidance allow financial institutions to provide information to State tax agencies when performing audits?

A.7. Senator Cortez Masto, you asked if the current FinCEN Guidance allows financial institutions to provide information to State tax agencies when those agencies are performing audits.

The FinCEN Guidance does not explicitly allow financial institutions to provide information to State tax agencies when those agen-

cies are performing audits; however, if a financial institution suspected tax evasion efforts by a cannabis business entity, that information would be reported in an escalated SAR (a Marijuana Priority SAR or Marijuana Termination SAR), and FinCEN could then route that SAR to the appropriate authorities for further investigation.

Q.8. If Congress passed legislation allowing the cannabis industry to access financial services, do you believe that States would be able to more accurately audit businesses and individuals associated with cannabis businesses or cannabis-related businesses?

A.8. Senator Cortez Masto, you asked if States would be able to more accurately audit businesses and individuals associated with cannabis businesses or cannabis-related businesses, if Congress passed legislation allowing the cannabis industry to access financial services.

Absolutely. It is very difficult to audit a business that operates solely in cash or an individual who operates solely in cash. Providing access to mainstream financial services means having access to bank statements and CTR/SAR data that would not otherwise be available in the underground economy.

Q.9. You noted in your testimony that your credit union, Maps, serves the Willamette Valley, a rural area in Oregon. Has legalization of cannabis driven economic development in your area?

A.9. Senator Cortez Masto, you asked if legalization of cannabis has driven economic development in the rural Willamette Valley of Oregon, which is inside the service area of Maps Credit Union.

I believe it has. There are currently 2,221 active cannabis business licenses in the State of Oregon, per Oregon Liquor Control Commission (OLCC) data as of August 9, 2019. The OLCC also reports 46,992 active Worker Permits as of August 13, 2019. That means nearly 47,000 Oregonians are permitted to work in the cannabis sector—a sector that was largely illegal just 5 years ago. With numbers like that, I believe it is a logical conclusion that the cannabis industry has contributed to economic development in the Willamette Valley.

Q.10. In your experience, has a legalized cannabis industry bolstered the economy of our rural and tribal communities?

A.10. Senator Cortez Masto, you asked if a legalized cannabis industry has bolstered the economy of our rural and tribal communities.

I do not yet have experience with the tribal communities in Oregon, but we have an upcoming meeting with one tribal leader to discuss the tribe's plans for economic expansion and how the cannabis sector may play a part in that. As for rural communities, I recall one Maps member, in particular. He owns a three-generation farm and used to sell produce to big-box stores such as WalMart. He was being so squeezed on price margins that he was concerned his entire operation would go out of business. When cannabis became legal in Oregon, his family invested in an overhaul of their farm to grow "specialty" strains of cannabis instead of produce, and he likened it to different varieties of wine. He commented to me, "Being part of the cannabis industry saved a three-generation

farm. We invested our entire life savings into this, and it's paying off. We don't live at the mercy of WalMart anymore. Now we control our own destiny." I believe that is a powerful message about the impact of this industry on our rural communities.

Q.11. As a provider of financial services to a rural community, do you believe that rural communities face greater challenges when accessing financial services for cannabis or cannabis-related businesses?

A.11. Senator Cortez Masto, you asked if, as a provider of financial services to a rural community, I believe that rural communities face greater challenges when accessing financial services for cannabis or cannabis-related businesses.

I do believe that rural communities are challenged when it comes to accessing traditional financial services. We are regularly contacted by State legislators and mayors of small towns who have seen their local community bank branches close altogether, and they are asking if there is any chance we could open a branch for their community. The challenges in doing so are often insurmountable. And that challenge regarding access to banking is just for rural, mainstream "Mom and Pop" businesses. It's far worse for cannabis businesses, who only have a handful of options currently in the State of Oregon. We have members who drive 6 hours round-trip to make their deposits at Maps. We are currently working on a potential solution to help our members deposit their cash more locally.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM JOANNE SHERWOOD**

Q.1. Many community banks and credit unions want guidance from the Federal financial regulators to help them navigate cannabis banking issues, and you indicated in your written testimony that financial institutions need clearer guidance. What additional guidance should the Federal banking agencies issue on how institutions can provide services to cannabis-related businesses?

A.1. As a preliminary matter, it is important to note that the Federal banking agencies cannot provide the needed clarity for financial institutions without Congress first providing a change to Federal law. Since marijuana is illegal under Federal law, it is difficult for Federal regulators to advise financial institutions on how best to navigate the divide between the letter of Federal law and the reality of State marijuana industries. (See Feinstein/Grassley letter to FinCEN.) It is impossible for banking regulators to shield banks from the potential civil and criminal liability that accompanies violations of the Controlled Substances Act and anti-money-laundering statutes. Federal banking regulators will need to issue clear guidance for banks, but first Congress must allow them to do so by enacting the SAFE Banking Act, or similar legislation. The content of marijuana banking regulation will necessarily be shaped by the Federal approach to marijuana. If Congress preserves the illegality of marijuana but provides a mechanism for banks to accept the proceeds of State-licensed marijuana businesses, as contemplated by the SAFE Banking Act, regulatory clarity will be essential in cre-

ating a reliable pathway for banks to serve marijuana businesses without fear of triggering criminal, civil, or regulatory censure.

Once Federal legislation is in place, the Federal banking agencies should review and revise the existing FinCEN guidance to ensure that banks are able to treat proceeds received from a marijuana-related business or service provider in the same manner that they would treat proceeds from any other legal business. Currently, the only guidance that banks have from any regulatory agency is the FinCEN guidance that was issued on February 14, 2014. However, that guidance only addresses marijuana-related businesses which, although not defined, FinCEN has informally indicated are businesses that have direct contact with the plant or plant products. FinCEN has also pointed out that the guidance is only to help banks address the conflict between State and Federal law when filing a Suspicious Activity Report and does not address the risk factors that banks should consider if banking any business related to the marijuana industry.

While the Federal banking regulators will tell visiting delegations of bankers that following the FinCEN guidance is the standard that they expect for compliance, that is not written down and there is no clarity about whether or not all examiners and auditors are adhering to a uniform standard when evaluating banking relationships with marijuana-related businesses. And so, bankers would also welcome clarity from the Federal banking regulators about what steps are needed to ensure they are acting in compliance with the laws. This does not need to be prescriptive but should outline the steps for a bank to ensure it is complying with regulatory expectations.

The other area where banks would welcome further clarity, as discussed during the hearing, are the many ancillary businesses that do not directly handle marijuana but receive some income from those businesses. These are the employees, the landlords, the suppliers and even the investors. In a letter to FinCEN in December 2016, ten Senators urged FinCEN to provide additional guidance on those relationships but, to our knowledge, nothing has been provided.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM JOANNE SHERWOOD

Q.1. What is the single biggest risk that we face if nothing is done to address the challenges facing cannabis and banking?

A.1. There are many negative repercussions that will result from failing to address the cannabis banking problem, but perhaps the biggest single risk is the continued risk to public safety caused by forcing these businesses to continue to operate on an all-cash basis.

Q.2. What is the single biggest benefit that we are likely to realize if we are able to address the challenges facing cannabis and banking?

A.2. Actually, there are two key benefits from banking these businesses. On the commercial side, allowing these businesses to have access to banking services would eliminate the need to operate on an all-cash basis and would provide a paper trail for examiners and

auditors as well as ensure monitoring of these accounts under standard Bank Secrecy Act procedures that have been in effect since 1986. The improved transparency provided by banking marijuana-related businesses would help identify and eliminate unlawful actors in State markets as well as facilitate accurate tax assessment and collection.

On the consumer side, it would allow employees of these businesses to maintain or open bank accounts which facilitates payments for normal daily transactions and creates a paper trail that helps individuals establish a credit record.

Q.3. A critical part of addressing the challenges facing cannabis and banking is ensuring that our anti-money-laundering laws remain robust and that our law enforcement officials are still able to enforce the law and deter criminals. What specifically needs to be done to ensure these priorities?

A.3. While there are separate steps that can be taken to improve the AML system in the United States, as currently being considered in the House of Representatives and draft legislation soon to be introduced by Senators Cotton, Jones, Rounds, and Warner, changing the access to banking services through adoption of the SAFE Banking Act would likely improve the system. First, it would ensure that these businesses are brought into mainstream banking where there is a regular audit trail of all transactions. Second, and perhaps more important, if these businesses open bank accounts, they would be subject to all the standard AML procedures that banks have had in place for over 30 years. Their activity would be subject to monitoring, as it is for any bank customer, and any suspicious transactions would be reported to law enforcement to investigate. Under the current system, where these businesses are compelled to operate in an all-cash environment, there is no paper trail, no monitoring, and no responsibility to report suspicious activity to law enforcement.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM JOANNE SHERWOOD

Q.1. The Federal prohibition of marijuana continues to create significant harm for communities across the country. However, as dozens of States—including Massachusetts—have implemented their own marijuana laws, there are still significant barriers posed by these outdated Federal laws.¹

This includes the inability of financial institutions to allow marijuana businesses acting in compliance with State laws access to banking services. Forcing these businesses to operate entirely in cash presents a dangerous public safety concern that Federal policymakers must swiftly address. That is why I am a cosponsor of the SAFE Banking Act, commonsense legislation that would help resolve this important issue for these marijuana businesses and the ancillary businesses that support them.²

¹National Conference of State Legislatures, “State Medical Marijuana Laws”, <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>.

²Secure and Fair Enforcement Banking Act, S. 1200, <https://www.congress.gov/bill/116th-congress/senate-bill/1200>.

I'm also the lead sponsor of the STATES Act—bipartisan, bicameral legislation with Senator Gardner that would protect States, territories, and tribal Nations from Federal interference as they determine their own marijuana laws.³ This bill addresses the financial issues caused by Federal marijuana laws by clearly stating that compliant transactions are not trafficking and do not result in proceeds of an unlawful transaction. It has been endorsed by organizations such as the American Bankers Association, Cooperative Credit Union Association, Credit Union National Association, Massachusetts Bankers Association, and others representing financial institutions.

Finally, I support efforts to legalize marijuana by removing it from the list of controlled substances under the Controlled Substances Act. While this action will have important and wide-reaching implications, it will also provide the fullest resolution to the marijuana banking issues that the Senate Banking Committee is discussing today.

As Congress explores legislative action, it is important that we consider ways to support legal marijuana businesses and their consumers—including medical marijuana patients—as soon as possible.

Do you believe that our current marijuana laws that force marijuana businesses to operate as cash-only enterprises pose a public safety risk? Do you believe that they hinder economic growth?

A.1. There is no question that lack of access to banking services means that marijuana-related businesses must operate in an all cash environment which definitely poses a public safety risk. The epitome of those risks was identified in an article in *The Hill* written by Representatives Ed Perlmutter (D-CO) and Denny Heck (D-WA): a young man, just out of the Marines and just accepted to his dream job as a police officer, was acting as a security guard for a State-legitimate marijuana dispensary when he was shot and killed during an attempted robbery of the dispensary.

Because these businesses do not have ready access to banking services in the current environment, they are handicapped in their access to capital. ABA recently issued a white paper, which examines the public benefits of banking cannabis businesses, including for public safety, tax collection, and local economic growth.

Q.2. You represent a financial institution that provides banking services in a State that has legalized marijuana for medical and recreational purposes. Can you please describe in detail the decision-making process in determining whether you would provide these services to State-legal marijuana businesses?

Please describe any challenges your financial institution faces in providing these services to marijuana businesses due to current Federal laws, including any regulatory barriers.

A.2. Under current Federal law, any income from a marijuana-related business is, by definition, the product of an illegal activity and therefore, processing those funds is deemed money laundering. Consequently, Citywide Banks does not offer financial services to marijuana-related businesses. That is why so many banks have

³Strengthening the Tenth Amendment Through Entrusting States Act, S. 1028, <https://www.congress.gov/bills/116th-congress/senate-bill/1028>.

also declined to enter this business. At the moment, even if marijuana were not federally illegal, there is also a lack of clarity from the regulatory community about what steps are necessary to appropriately identify risks and, more important, what steps are needed to ensure a robust compliance program when banking these businesses. Unfortunately, until the Federal prohibition on handling marijuana-related proceeds is addressed, the regulatory uncertainties cannot be addressed.

It is important to recognize that existing regulatory guidance does not address the underlying illegality of marijuana funds, and as such, is insufficient to enable banks to provide financial services to marijuana-related businesses. Every memorandum from the Department of Justice, before they were rescinded on January 4, 2018, by then-Attorney General Jefferson Sessions, such as the one issued on August 29, 2013, emphasized that marijuana was illegal under Federal law and the guidelines were designed to allocate limited law enforcement resources, not create a safe harbor to bank marijuana-related businesses. Similarly, the FinCEN guidance issued on February 14, 2014, emphasized that “The Controlled Substances Act (CSA) makes it illegal under Federal law to manufacture, distribute, or dispense marijuana.”

Therefore, any bank that elects to bank one of these businesses runs the constant risk of prosecution for money laundering under Federal law.

Q.3. Please describe any services, if any, that you provide to ancillary marijuana businesses (e.g., legal or security firms, food safety businesses, real estate) and any challenges you face in providing such services.

A.3. Citywide Banks will consider opening accounts for ancillary businesses where some of their revenue may derive from cannabis-related businesses. In these situations, we review the nature of business and why they receive funds from cannabis-related businesses. We search the ancillary business and their owners to determine if they have any ownership in a cannabis-related business. If we decide to open accounts for an ancillary business, they are considered high-risk for BSA/AML and are monitored more closely than other businesses that don’t receive revenue from cannabis-related businesses.

Challenges with banking ancillary businesses is if they would like a loan. For example, real estate owners who have tenants that are cannabis-related, we are unable to provide loans using collateral on the property. We have also had situations with existing customers where we were not able to renew a loan due to them having a cannabis-related tenant on the collateral.

Q.4. What has the community response been, if any, to your financial institution providing banking services to legitimate marijuana businesses?

A.4. Since the bank does not offer those services, it has not been an issue.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM JOANNE SHERWOOD**

Q.1. If Congress passed legislation, such as the SAFE Banking Act, do you think financial institutions and law enforcement would have the tools needed to find and investigate money laundering and other financial crimes?

A.1. Yes. These accounts would be monitored in accordance with existing Bank Secrecy Act requirements, which are designed to detect suspicious financial transactions. It would be helpful to eliminate the many Suspicious Activity Reports (SARs) that are currently being filed on each and every transaction conducted by a marijuana-related business in order to enable law enforcement to focus on areas where truly suspicious transactions are occurring. Anecdotal responses from bankers suggest that, were the SAFE Banking Act to become law, more marijuana-related businesses would have access to banking services where their account activity is monitored as a matter of course in compliance with the expectations banks have met under the Bank Secrecy Act since the Money Laundering Control Act of 1986.

As we pointed out in our testimony, “The increased transparency that would come from processing transactions through bank accounts instead of in cash would ensure that regulators and law enforcement have the necessary tools to identify bad actors and remove them from the marketplace. The activity of cannabis businesses would become part of the standard process that all banks apply to their customers to understand customer profiles, assess risk, and monitor for and report possible suspicious activity and large cash transactions.”

Q.2. Do you believe there are additional tools we should provide to financial institutions that work with cannabis businesses in order to better assist law enforcement?

A.2. If FinCEN and the Federal banking regulators issue additional guidance and examination procedures to clarify what steps banks should take to identify and manage the risks associated with banking marijuana-related businesses, it should go a long way toward helping banks feel more comfortable with offering banking services to these businesses. As the process evolves, it is possible that law enforcement or the financial sector might find the need for additional clarity, but at this point that should be something that can be accomplished through an advisory from FinCEN.

Q.3. According to the FDIC’s 2017 survey of unbanked and underbanked individuals, 6.1 percent of Nevadans were unbanked. And Nevada has one of the highest rates of underbanked citizens in the country—more than 1 in 4 Nevadans were underbanked. Can you discuss any harms or risks associated with a large population of unbanked and underbanked individuals, particularly those in the cannabis industry who are already being paid in cash?

A.3. There are many difficulties associated with a lack of access to banking accounts. As pointed out during the hearing, operating in an all-cash environment with large amounts of cash presents a safety risk to employees, customers, and the communities where these businesses operate. For the individual consumer, such as an

employee of a marijuana-related business, lack of access to a bank account and paying all bills in cash prevents the consumer from developing a credit history or credit score, presenting challenges in getting loans, renting an apartment, or even getting a job. Lack of access to a bank account also means the individual has to rely on check cashers, payday lenders, and other high-cost services for routine transactions.

An article in *U.S. News* summarizes the disadvantages consumers face in not having access to banking services.

Q.4. Do you believe employees of marijuana businesses, or marijuana-related businesses are more likely to be unbanked or underbanked?

A.4. Absolutely. One of the challenges that employees of marijuana-related businesses face is that, because the bulk if not the entirety of their income comes from an activity that is illegal under the Controlled Substances Act, their income is considered “tainted” and handling those funds can be considered money laundering. As a result, if the source of their income is known at the time an account is opened, it would be risky for a bank to open the account and so that increases the likelihood that the individual will be unbanked. For consumers with existing bank accounts, it might not be readily apparent that the source of the income is from a marijuana-related business. If there is a sudden increase in cash activity or other unusual behaviors in the account, then it is likely that the bank’s monitoring system will detect the anomaly and prompt an investigation by the bank, which could result in the account relationship being terminated.

Q.5. If Congress passed legislation allowing the cannabis industry to access financial services, do you believe that States would be able to more accurately audit businesses?

A.5. Yes. In testimony before the House Financial Services Committee last February 13, California Treasurer Fiona Ma pointed out some of the challenges associated with operating in an all-cash environment. During the hearing, she indicated that having the paper trail provided by bank accounts would definitely make it simpler to audit these businesses. Clearly, having the information provided in regular bank statements would create a set of data that can be audited, data that is lacking in an all-cash environment.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM GARTH VAN METER

Q.1. What is the single biggest risk that we face if nothing is done to address the challenges facing cannabis and banking?

A.1. Since States began licensing the production and distribution of marijuana, there has been a marked increase in potency as business investors have been able to improve technology, growing techniques, and extraction to produce products that did not exist prior to the legalization and commercialization of marijuana. What we think of as Woodstock weed was approximately 1–3 percent potency, while today’s concentrates go up to 95 percent potency. The biggest risk we face is accelerating this trend through increased in-

vestment in the marijuana industry, which will increase both prevalence and frequency of use for high potency products, including concentrates. These have demonstrated impacts on a variety of public health measures, including increased impaired driving crashes and fatalities, increased workplace accidents and reduced participation, increased instances of addiction and damage to mental health, and reduced educational attainment and life outcomes.¹

Currently, legalization and commercialization have only happened at the State level, which has put a damper on the amount of investment into the marijuana industry in the United States. Changing Federal laws to increase investment into the marijuana industry without restrictions on potency or other public health measures will make public health outcomes worse.

Q.2. What is the single biggest benefit that we are likely to realize if we are able to address the challenges facing cannabis and banking?

A.2. It will be a Pyrrhic victory: we will gather much more data about the damaging effects of heavy use of high potency marijuana products, but without any of the normally required safeguards for participants in research experiments. No State has been able to successfully institute a potency cap due to stiff opposition from the marijuana industry.² State regulations allow all manner of products that are appealing to children, leading to a Wild West atmosphere in which the marijuana industry has been able to recreate the Big Tobacco playbook largely without interference (case in point, the same style of social media advertising for which Juul got in trouble is still being used by marijuana vaporizer and concentrate companies).

The goal of the marijuana industry is to initiate new users of their products through ease of use and product innovation, and convert casual users into heavy users by introducing them to high potency concentrates (including vapes), which are prominently advertised in social media, print advertising, and product promotions. Concentrates and high potency vapes have increased in popularity and market share.³ The proportion of heavy users has also markedly increased, corresponding with the increase in the average potency available.⁴ The science has not yet caught up to understand the long-term effects of high potency use, but the early indicators are very concerning on the impact to mental health.⁵

Q.3. A critical part of addressing the challenges facing cannabis and banking is ensuring that our anti-money-laundering laws remain robust and that our law enforcement officials are still able to enforce the law and deter criminals. What specifically needs to be done to ensure these priorities?

¹ <https://learnaboutsam.org/wp-content/uploads/2019/07/2019LessonsFinal.pdf>

² <https://mjbizdaily.com/wp-content/uploads/2016/07/Healthy-Colorado-quits.pdf>

³ <https://www.globenewswire.com/news-release/2019/06/25/1873754/0/en/Global-Cannabis-Concentrate-Market-Will-Reach-Over-USD-13-78-Billion-By-2026-Zion-Market-Research.html>

⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6312155/>; <https://www.nbcnews.com/health/mental-health/chronic-pot-use-may-have-serious-effects-brain-experts-say-n924441>;
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5719106/>

⁵ <https://www.cbsnews.com/news/marijuana-psychosis-smoking-strong-pot-daily-increases-risk-of-psychosis-study-finds/>

A.3. SAM agrees that money laundering is a crucial issue to address. We understand that some believe that money laundering has become a bigger problem due to some dispensaries dealing in cash. But as the former DEA Administrators and ONDCP Directors explained in their letter to the Committee, the thing that cartels and organized crime prize the most is access to banking. Lt. Martinez of the Denver Police Department describes how cartels can use dispensaries with access to banks to launder money in excess of \$10,000 per deposit, which is a very large incentive.

Here are additional questions that should be answered by banks or credit unions prior to the drafting of any legislation related to money laundering:

How often do your dispensary, processor, or grower clients deposit cash in your institution? What sort of documentation do you require with each deposit? Do you verify deposits against their record of inventory? Do you cross reference their inventory with the State's seed-to-sale tracking system? Do you place holds on any deposits before this documentation is verified?

Does every one of your marijuana clients use an external auditor? Does the auditor physically verify inventory or run checks against the seed-to-sale tracking system? Is that a requirement of your institution before you will do business with them?

Given the Oregon Secretary of State found that the Oregon Liquor Control Board only had resources to audit 3 percent of licensed dispensaries⁶ and the State of California only has 15 staff to conduct enforcement in the entire State,⁷ how do you ensure your customers are compliant with State regulations? Do you conduct routine site visits for customers that have not been audited by the State?

SAM suggests that all of these items should be addressed in any legislation or amendments proposed.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM JOHN LORD

Q.1. In your written testimony, you indicated that it costs you \$3,000 a month to maintain your bank account, and that these high fees are especially difficult for smaller businesses to afford. How would additional certainty for banks, through regulatory guidance or the SAFE Banking Act, affect smaller businesses in particular?

A.1. Uncertainty created by the dichotomy between State-legal cannabis programs and Federal prohibition increases operating costs within the cannabis industry, disproportionately hurting smaller businesses. While larger, existing companies struggle to absorb these costs, they are often fatal for small businesses and new businesses, as these hefty costs represent a larger percentage of their operating budget. Further, banks refusing to lend to cannabis businesses removes the opportunity for many potential smaller businesses to enter the industry because they lack access to the necessary capital. The SAFE Banking Act would eliminate much of

⁶<https://www.oregonlive.com/news/2019/01/oregon-marijuana-regulators-fail-to-meet-even-basic-standards-state-audit-finds.html>

⁷<https://ktla.com/2019/07/17/california-officials-struggling-to-regulate-weed-market-audit/>

this uncertainty, reducing banking-related costs and creating more access to capital.

Q.2. Overcriminalization of marijuana has led to a mass incarceration crisis that disproportionately affects communities of color. What steps has the Cannabis Trade Federation taken to ensure diversity in the State-legal cannabis industry? Are members of the Cannabis Trade Federation required to commit to diversity and inclusion standards? Please describe employee diversity at LivWell and any current or planned efforts to increase diversity.

A.2. The Cannabis Trade Federation (CTF) has formed a Diversity, Equity, and Inclusion (DEI) Task Force as a means to create commitment and action to further a core part of CTF's mission—to promote diversity in the industry. (The full membership of this impressive board, which includes the current CEO of the NAACP and the current CEO of the National Urban League, is available here: <https://www.cannabistradefederation.com/dei-task-force>.) As an initial step, the CTF board formed two committees—a Diversity Committee and a Social Impact Committee. The DEI Task Force will work with these committees to develop an industrywide DEI policy to be adopted by the full CTF board. Upon adoption, CTF member companies will have to agree to CTF's DEI policy as a requirement of membership. The DEI Task Force will also develop benchmarks and goals to measure the industry's progress.

LivWell keeps diversity at the forefront when hiring, striving to hire candidates who represent the diverse communities we serve. We are continuously identifying additional avenues to recruit diverse applicants and retain those employees when hired. When we hold traditional career fairs, we work to increase the diversity of those attending, including cooperative efforts with the Hispanic Chamber of Commerce and Association of Black and Latino Corporate Directors. In addition, our Director of Human Resources sits on the Cannabis Trade Federation DEI Task Force discussed above.

LivWell also believes that nurturing true diversity cannot stop at the hiring of diverse candidates, but also requires a heavy focus on management development, allowing employees to grow with the company. As such, we have developed a 10-week Manager Development Program that helps associates develop as managers so they can grow their careers within LivWell. We believe that such ongoing efforts have yielded results, with our hiring statistics reflecting or exceeding State diversity percentages. In addition to a highly diverse population companywide, five out of our twelve Senior Executives are women with continuing recruitment for diverse people to fill the company's senior management roles.

Q.3. Please describe your efforts, on behalf of LivWell and the Cannabis Trade Federation, to support changes to State laws to allow cannabis businesses to hire employees who have prior, nonviolent marijuana offenses that have served their sentences.

A.3. In Colorado this year, LivWell actively supported and lobbied SB19-224, Sunset Regulated Marijuana, which contained a provision that reduced the timeframe during which an individual convicted of felony was ineligible for a license from the Marijuana Enforcement Division from 5 years to 3 years.

In addition, LivWell is actively engaging in discussions concerning automatic expungement of marijuana offenses that policy-makers will be holding in the coming months. The Cannabis Trade Federation (CTF) strongly supports policies that promote an inclusive cannabis industry, including providing those with previous marijuana convictions employment opportunities in the industry. CTF recently formed a Diversity, Equity, and Inclusion Task Force (DEI Task Force) comprised of prominent national civil rights and cannabis industry leaders. (The full membership of this board, which includes the current CEO of the NAACP and the current CEO of the National Urban League, is available here: <https://www.cannabistradefederation.com/dei-task-force>.) The DEI Task Force is charged with developing an industrywide diversity, equity, and inclusion policy. Once approved by the CTF board, CTF member companies will have to abide by this policy as a condition of membership.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED
FROM JOHN LORD**

Q.1. What is the single biggest risk that we face if nothing is done to address the challenges facing cannabis and banking?

A.1. The biggest immediate risk is and will remain the security issues created by a cash-based industry. Not only is it cash-based, but it is famously cash-based. Those with nefarious purposes know that employees of cannabis businesses could be carrying a lot of cash. With the cannabis industry growing, the longer we maintain the status quo, the more the vulnerability to becoming a crime victim increases for cannabis workers. In the long term, these security concerns will be accompanied by a second large risk: an industry permanently distorted against small businesses. Without banking services and access to loans, those with limited access to capital struggle to enter the cannabis industry. The longer it takes to fix the banking situation, the longer these small businesses will be excluded, and the more difficult it will be for new companies to compete with the established companies.

Q.2. What is the single biggest benefit that we are likely to realize if we are able to address the challenges facing cannabis and banking?

A.2. The biggest benefit of fixing the banking issue is increased security for cannabis industry employees and customers. Decreasing the likelihood that they will be carrying large quantities of cash reduces their attractiveness as targets of criminal actions. A proper banking solution will also help secure against money laundering and tax evasion by bringing transactions into a more easily monitored and transparent system.

Q.3. A critical part of addressing the challenges facing cannabis and banking is ensuring that our anti-money-laundering laws remain robust and that our law enforcement officials are still able to enforce the law and deter criminals. What specifically needs to be done to ensure these priorities?

A.3. The Cannabis Trade Federation (CTF) supports the vigorous enforcement of our Nation's anti-money-laundering laws (AML)

which is one reason why CTF supports the Safe Banking Act. Banks are accustomed to the rigorous compliance with the Bank Secrecy Act and other AML rules and regulations. Currency and suspicious transaction reports are important tools that aid in identifying illegal activity. Because of CTF's support for AML, we are particularly grateful that FinCEN has maintained its guidance titled BSA Expectations Regarding Marijuana-Related Businesses (FIN-2014-G001) (February 14, 2014). According to FinCEN, as of March 31, 2019, they have received more than 81,000 SARs from MRBs or Marijuana Related Businesses. This information helps law enforcement deter and detect illegal operations and increases transparency into MRBs. Unfortunately, only a fraction of financial services organizations bank MRBs and even fewer bank cannabis businesses. Law enforcement would be greatly aided by maximizing the number of cannabis businesses and MRBs that can obtain standard banking services.

To increase compliance with AML rules and regulations, we recommend that Congress enact the SAFE Banking Act and the STATES Act, the latter of which will remove the legal uncertainty that arises from the conflict between Federal and State cannabis laws and allow more financial services companies to do business with cannabis businesses. Once this is done, FinCEN should immediately include a representative from the cannabis industry into its Bank Secrecy Act Advisory Group (BSAAG). CTF stands ready to assist any Government agency, including FinCEN, increase its knowledge and understanding of the cannabis industry.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR MENENDEZ FROM JOHN LORD**

Q.1. Mr. Lord, if Congress were to provide legal clarity around the provision of insurance at the Federal level and help legal marijuana businesses reduce their insurance costs, would we be lowering the entry costs into the industry and thereby making it easier for smaller businesses—including the communities targeted by the war on drugs—to share in the economic opportunity of the legal marijuana industry?

A.1. Yes. The uncertainty created by Federal illegality of a State-legal industry makes procuring insurance more costly. Increased insurance costs, like all of the other costs raised by the legal uncertainty surrounding the industry, disproportionately hurts businesses with less access to capital. Many people of color, people in communities targeted by the war on drugs, and people wanting to start small, local businesses have limited access to capital. High costs, limited access to capital, and the refusal of banks to make loans to the cannabis industry combine to keep many potential small businesses out of cannabis industry all together. Excessive costs for insurance policies worsens the situation. I and the Cannabis Trade Federation very much appreciate your efforts to provide legal protection to insurance companies that wish to make coverage available to State-legal cannabis businesses. Passage of your legislation would result in more insurance companies providing coverage, which will lead to greater competition and lower costs.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN
FROM JOHN LORD**

Q.1. I'm pleased that the Banking Committee is holding today's hearing to discuss how Congress can approach this issue. However, it is critical that Congress take the opportunity to advance marijuana policy reforms in a holistic manner that not only advances our Federal marijuana laws but reverses the harm of these policies on our communities—particularly communities of color that have been greatly impacted by the failed War on Drugs.

In addition to legalizing marijuana, these efforts must include Federal and State legislative action to wipe clean the records of those unjustly jailed for minor marijuana offenses, and allowing any individual currently incarcerated for these offenses to petition for release. They must also allow those communities that have been disproportionately hurt by these failed policies with greater access to the economic opportunities presented by marijuana reforms.

As the CEO and owner of a marijuana businesses, what steps have you taken to ensure employment opportunities are provided to diverse populations?

A.1. LivWell keeps diversity at the forefront when hiring, striving to hire candidates who represent the diverse communities we serve. We are continuously identifying additional avenues to recruit diverse applicants and retain those employees when hired. When we hold traditional career fairs, we work to increase the diversity of those attending, including cooperative efforts with the Hispanic Chamber of Commerce and Association of Black and Latino Corporate Directors. In addition, our Director of Human Resources sits on the Cannabis Trade Federation Diversity, Equity, and Inclusion Task Force.

LivWell also believes that nurturing true diversity cannot stop at the hiring of a diverse candidate, but also requires a heavy focus on management development, allowing employees to grow with the company. As such, we have developed a 10-week Manager Development Program that helps associates develop as managers so they can grow their career within LivWell. We believe that such ongoing efforts have yielded results with our hiring statistics reflecting or exceeding State diversity percentages. In addition to a highly diverse population companywide, five out of our twelve Senior Executives are women with continuing recruitment for diverse people to fill the company's senior management roles.

Q.2. The Massachusetts Cannabis Control Commission (CCC) recently announced that it selected six organizations to support efforts to implement the first social equity program in the country. According to CCC Commissioner Shaleen Title, this will "ensure our legal marketplace is accessible to impacted individuals and off[er] the resources participants need to overcome barriers to entry."¹ Do you believe that each State should implement a similar social equity program that levels the playing field for every individual?

¹*Boston Globe*, "Cannabis Commission Taps Six Groups To Boost Social Equity Efforts", Colin A. Young, July 18, 2019, <https://www.bostonglobe.com/news/marijuana/2019/07/18/cannabis-commission-taps-six-groups-boostsocial-equity-efforts/AnKNafJyemxeKslZk8dmKN/story.html>.

A.2. The cannabis industry is a unique industry, given the fact that it revolves around a substance that was not only previously illegal (and still is at the Federal level and in many States), but also resulted in the arrest and prosecution of millions of individuals whose lives have been harmed, often times significantly, by those criminal sanctions. And these sanctions disproportionately affected individuals and communities of color. As the industry grows, we have a responsibility to ensure that those individuals and communities that were negatively impacted by marijuana prohibition derive substantial benefits from the legal cannabis industry. Accordingly, I certainly support States and localities implementing social equity programs that further their specific objectives. The objectives could include greater diversity in ownership, greater diversity in the workforce, worker training for individuals previously incarcerated or underemployed due to prior marijuana convictions, or direct investment in affected communities for programs and projects that are not cannabis-related, such as after-school programs or recreational centers.

Q.3. How are you working among your community and within your State to further opportunities to own and manage marijuana businesses across diverse populations?

A.3. In Colorado this year, LivWell actively supported provisions contained in SB19–224, Sunset Regulated Marijuana, that created “accelerator cultivator” and an “accelerator manufacturer” licenses. These licenses, once the law is fully implemented will allow currently licensed marijuana businesses to host and offer technical and capital support to accelerator license holders. The law sets forth the qualifications necessary for an individual to obtain an accelerator license: a person who has lived in a “census tract designated by the [Colorado] Office of Economic Development and International Trade as an opportunity zone for 5 of the 10 years prior to application.” LivWell looks forward to extending this support to the law’s implementation and will investigate opportunities to be a meaningful part of this program.

Q.4. Are there steps that you believe Congress should take to support these efforts?

A.4. The Cannabis Trade Federation supports ending the Federal prohibition on cannabis as soon as possible. The illegal status of cannabis at the Federal level is a significant impediment to State and local equity programs. As reported in the *Boston Globe* late last year, John Barros, the City of Boston’s Chief of Economic Development, “said the Federal prohibition on marijuana has been a major obstacle to equity, since it prevents banks from loaning money to cannabis firms—and because most of the city’s small business assistance efforts are funded by Federal dollars that cannot go toward [cannabis] companies.”² Accordingly, in addition to expanding access to banking through the enactment of the SAFE Banking Act, we strongly support passage of the bipartisan STATES Act, of which you and Senator Cory Gardner of Colorado are the Senate sponsors. The STATES Act would reconcile State

²<https://www.bostonglobe.com/metro/2018/12/04/boston-city-council-questions-walsh-administration-over-marijuana-licensing/5xCPOzM18jQixA03IMVb2J/story.html>

and Federal conflicts in cannabis law by bringing any entity or individual acting in accordance with State law into compliance with the Controlled Substances Act.

The passage of the SAFE Banking Act would help in the effort to expand minority ownership in the cannabis industry. Currently, access to financial institutions comes at a steep cost. As I mentioned in my testimony, due to the significant compliance costs associated with serving cannabis customers under existing policies, financial institutions charge cannabis businesses substantial monthly fees. Our company pays in excess of \$3,000 per month for the mere privilege of having an account. The current situation is especially challenging for small businesses. While we, due to our size, are able to absorb the additional costs associated with cash management and exorbitant bank fees, many small businesses are not. Furthermore, passage of the SAFE Banking Act could significantly aid cannabis businesses in securing business loans.

This is critical to small business owners who may not have access to other sources of capital. If there is any hope in helping small businesses—including minority- and women-owned companies—survive and thrive, we must resolve the banking situation. Finally, minority- and women-owned cannabis businesses would benefit from passage of a bill like Rep. Nydia Velazquez’s (D-NY) Ensuring Safe Capital Access for All Small Business Act of 2019 (H.R. 3540), which would make cannabis firms eligible for Small Business Administration-backed assistance such as microloans and loan guarantees. The lack of access to financial services and Federal assistance to small businesses in the industry erects barriers to entry that Congress has the ability to eliminate if it simply chooses to act.

Q.5. Are there steps that you believe the marijuana industry should take nationally to focus on the importance of racial equity within the industry?

A.5. It is crucial for the cannabis industry to be proactive with respect to the issue of diversity in the industry. We must ensure that when the cannabis industry matures it is diverse and inclusive and has helped right some of the wrongs of past criminalization. To that end, the Cannabis Trade Federation (CTF) has formed a Diversity, Equity, and Inclusion Task Force (DEI Task Force) comprised of prominent national civil rights and cannabis industry leaders to develop a diversity, equity, and inclusion policy for the industry. (The full membership of this board, which includes the current CEO of the NAACP and the current CEO of the National Urban League, is available here: <https://www.cannabistradefederation.com/dei-task-force>.) After completion and adoption by the CTF Board, compliance with that policy will become a required condition of membership for CTF. The DEI Task Force is looking at State leaders in equity like Massachusetts and Illinois as well as Congressional proposals like Rep. Barbara Lee’s RESPECT Resolution and other industry best practices to ensure this policy is comprehensive and effective in creating a diverse and inclusive industry.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM JOHN LORD**

Q.1. According to the FDIC's 2017 survey of unbanked and underbanked individuals, 6.1 percent of Nevadans were unbanked. And Nevada has one of the highest rates of underbanked citizens in the country—more than 1 in 4 Nevadans were underbanked. Can you discuss any harms or risks associated with a large population of unbanked and underbanked individuals, particularly those in the cannabis industry who are already being paid in cash?

A.1. Access to adequate banking services is important for many reasons but particularly to reduce security risks and increase financial stability. Cannabis industry employees typically do not have access to financial services like direct deposit that can provide individuals with a tool to manage their finances. Instead of direct deposit or a paycheck, cannabis industry employees are often paid in cash, making them attractive targets for criminals. Increasing access to banking services through the SAFE Banking Act will reduce the risk of cannabis industry employees becoming victims of crime while also allowing them a tool to manage finances readily available to those who work in other industries.

Q.2. Do you believe employees of marijuana businesses, or marijuana-related businesses are more likely to be unbanked or underbanked?

A.2. I am not aware of any statistics that provide clarity on the percentage of cannabis industry employees who are unbanked or underbanked. However, anecdotally I have heard that individuals do struggle to access financial services that employees in other industries take for granted, such as direct deposit. For a worker who may be paid in cash, such an individual may choose to eschew banking altogether, leading to less interaction with banking services, which harms opportunities for mortgages, car loans and other financial mechanisms that create a solid and stable financial life. The current tension between Federal and State laws across the country exacerbates the situation for those currently underbanked and prohibits an avenue forward for the unbanked population. The SAFE Act would help alleviate these issues.

Q.3. In your testimony, you noted that you and many of your employees have been denied access to financial services, including having personal accounts closed or a mortgage denied. How has this affected you or your employees' finances and financial planning? Have you or your employees had to use other financial products, such as a check cashing service or money orders?

A.3. To protect employees to the best of our abilities from adverse banking actions, we created an employment firm from which we lease our employees. However, this barrier does not always prevent our employees from being denied financial services, such as mortgages, or from having to accept terms less favorable from those that would be offered to an individual not working in cannabis. Employees often struggle to refinance their homes, and in one instance, an employee had to accept a car loan with an exceptionally high interest rate or forgo the car purchase. The human resources department counsels employees with such issues when possible. In

addition, LivWell offers a 401k to its employees with the hope that such a benefit will assist employees with their long-term financial planning.

Q.4. In your experience, has a legalized cannabis industry bolstered the economy of our rural and tribal communities?

A.4. Yes, the early returns show that the cannabis industry bolsters the economy in every location where it is legal, often significantly. For example, a study of Pueblo County in Colorado by the Colorado State University–Pueblo’s Institute of Cannabis Research found that in the first few years of legalized adult-use cannabis, the cannabis industry contributed more than \$58 million to the local economy. Legal cannabis brings in needed tax revenue that can be used for important infrastructure improvements. Since January 1, 2014, the State of Colorado has collected more than a billion dollars in cannabis taxes and fees, not including the hundreds of millions of additional tax revenue generated by local governments. The Marijuana Business Daily’s Annual Fact Book estimates that the State-legal cannabis industry currently employs the equivalent of 175,000 to 215,000 full-time workers, many of whom live or work in rural areas. This economic development has attracted the interest of many tribal communities. For example, in Nevada, Ely Shoshone Tribe Chairwoman Diane Buckner said the opportunity presented by cannabis “is huge for us.”¹ The Ely Shoshone opened a medical and recreational dispensary in December of 2017, immediately creating new jobs and then used the revenue generated by that dispensary to build a grow facility, resulting in the hiring of more people. At least seven other tribes have entered into marijuana agreements with the State of Nevada hoping to take advantage of this opportunity.

Q.5. Has the industry helped propel economic development, outside of cannabis, for communities, such as those in rural areas or tribal lands?

A.5. The cannabis industry brings jobs and economic development to many areas, including rural and tribal areas. Cannabis cultivation and product manufacturing often takes place further away from population centers and can be a real boon to those in rural and tribal areas. Currently, the cannabis industry is very localized with the effect of having most cannabis spending staying in the local economy. The Marijuana Policy Group found that each dollar of spending within the cannabis industry in Colorado brought between \$2.13 to \$2.40 of local output and employment.² Some estimate that the cannabis could have up to a \$5 billion economic on North American Tribal Communities.³ Further, the revenue generated from sales creates opportunities for tribes to invest in themselves. The Port Gamble S’Klallam Tribe on Washington’s Kitsap Peninsula opened a cannabis dispensary and plan to invest the resulting revenue in either social programs or college scholarship pro-

¹ <https://newsmaven.io/indiancountrytoday/news/many-tribes-say-billion-dollar-cannabis-business-is-a-gateway-to-economic-development-2mDYegq8v02VmO-7SzjyQg/>

² <https://www.mjpolicygroup.com/pubs/summary/MPG-Economic-Impact-Summary.pdf>

³ <https://newfrontierdata.com/marijuana-insights/cannabis-potential-5-billion-economic-impact-ontonorth-american-tribal-communities/>

grams, both of which will spur further economic development.⁴ This investment of cannabis revenue has the opportunity to drive economic activity in these areas and keep the benefits of that spending in the local community.

Q.6. Does a lack of access to financial services disproportionately impact rural communities who want to engage in the cannabis industry?

A.6. While the lack of access to financial services affects the entirety of the cannabis industry, it makes sense that this lack of access is disproportionately harmful to those living or operating in rural areas. Cannabis businesses located or operating in rural areas have to transport cash across longer distances, making owners and employees more vulnerable to potential robberies. Also, having many nearby banking options greatly increases the likelihood that at least one local bank will be one of the few willing to provide services to the cannabis industry. Those chances greatly diminish when operating in areas with fewer banking options.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM JOHN LORD

Q.1. As the owner and operator of a cannabis company, can you speak to the safety risks that employees at State-compliant cannabis businesses face by having to do business solely in cash?

A.1. The cannabis industry is not only mostly cash-based, it is famously so. This means that those with nefarious purposes know that cannabis employees will often have large quantities of cash on their person. This knowledge makes them attractive crime targets compared to most other businesses, where sales and transfers are predominantly made electronically or by check. The status of cannabis and banking at the Federal level has resulted in credit card companies refusing to process transactions for cannabis stores. So we are forced to take cash from customers and then have that cash collected by armored car to be delivered to a Federal Reserve Bank. There are risks and hazards throughout this process. And, of course, this situation is not unique to our company. It affects every cannabis business in the country. Although the required security systems and equipment at cannabis facilities are extensive, we still must worry about theft and armed robberies. During one such robbery attempt in 2016, a security guard at a dispensary in Aurora, Colorado, who was a Marine Corps veteran, was shot and killed. Passage of the SAFE Banking Act could prevent similar tragedies from occurring in the future.

Q.2. How would the SAFE Banking Act help to mitigate those security risks and keep both the public and employees safe?

A.2. Making it easier for cannabis companies to operate like businesses in other industries will greatly reduce the risk of armed robbery and other crimes. Those looking to commit a robbery now know that cannabis establishment employees often carry large quantities of cash, making them attractive targets. A fully banked

⁴<https://newsmaven.io/indiancountrytoday/news/many-tribes-say-billion-dollar-cannabis-business-is-a-gateway-to-economic-development-2mDYeq8u02VmO-7SzjyQg/>

cannabis industry, with the current product tracking and security systems in place, would no longer be an attractive target for crime. Further, a proper banking solution will also help secure against money laundering and tax evasion by bringing transactions into a more easily monitored and transparent system.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD



Dear Senate Committee on Banking, Housing, and Urban Affairs;

7/19/2019

Moms Strong is a nonpartisan support group partnering to inform and educate those harmed by marijuana. We are not funded by industry or the government, rather by parents as we hope to spread awareness and prevent tragedies like those we've experienced.

S1200-Secure And Fair Enforcement Banking Act of 2019 would radically increase investment in the marijuana industry, accelerating the next Big Tobacco thus creating even more harms from today's high potency marijuana while criminal organizations, which produce kid-friendly products, profit off addiction and mental illness.

Marijuana increases the risk for substance abuse, mental illness/psychosis, and drug overdoses. Please consider the following.

1. Elinore McCance-Katz, MD, PhD, the Assistant Secretary for Mental Health and Substance Use and oversees the Substance Abuse and Mental Health Services Administration (SAMHSA), said the greatest number of "new initiates" to marijuana use are teenagers, which is especially concerning because their brains have not yet fully developed.

She cited numerous association studies linking marijuana use to a host of adverse outcomes: behavioral problems, early-onset psychosis, poor school performance, and low birthweight deliveries, among others.

And while tobacco and alcohol rates have declined among pregnant women in recent years, illicit drugs -- mainly marijuana but also opioids -- have increased from 78,000 women in 2015 to 111,000 in 2016, she said.

Dr. McCance-Katz also sought to counter [recent news reports](#) that suggest marijuana legalization may have driven down use of opioids.

On the contrary, "marijuana use was associated with substantially increased risk of addiction and overdose for opioids," she said, citing research from Mark Olfson, MD, MPH, and colleagues in the *American Journal of Psychiatry*.

<https://www.medpagetoday.com/psychiatry/generalpsychiatry/72519>

2. Hundreds of peer-reviewed, scientific articles show a correlation between marijuana use and psychotic outcomes such as schizophrenia, too numerous to list here. The question of whether marijuana is causal for psychosis has been answered in the affirmative by applying standard principles of causation in pharmacological & epidemiological research:

Dose response effect, so that heavier use of more potent product results in more users developing schizophrenia (Zammit et al., 2002; van Os et al., 2002; DiForti et al., 2009; DiForti et al., 2015)

Administration of the active ingredient (Δ^9 -THC) in the clinic under controlled conditions causes psychotic symptoms (D'Souza et al., 2004; Morrison et al., 2011; Bhattacharyya et al., 2011; Freeman et al., 2014).

Self-medicating is not that likely, because many will try to quit to avoid the psychotic symptoms before they become too impaired (Fergusson et al., 2005), e.g. comedian Seth McFarlane; but for others it may be too late (as seen in The Other Side of Cannabis, Heartsgate Prod. 2015).

Marijuana use generally comes before the psychosis, not vice-versa (Arseneault et al., 2002; Henquet et al., 2005; Kuepper et al., 2011).

In users who have schizophrenia, the age of onset is earlier than for non-users, similar to the effect of carcinogens in causing an earlier onset of a suite of cancers (Veen et al., 2004; Barnes et al., 2006; Large et al., 2011)

Of all recreational drugs, marijuana use is the most likely to result in chronic psychosis (Niemi-Pynttari et al., 2013).

3. Opioid overdoses associated with an increase of 23% in medical marijuana legalized states.
<https://www.pnas.org/content/116/26/12624>

Moms Strong is contacted weekly from more families who are in crisis from today's marijuana devastating effects. Most of these families struggle to find adequate treatment, especially for psychosis. Please protect America's children and families and not promotional marijuana policies. We ask you to vote against The Secure And Fair Enforcement Banking Act of 2019.

While you are deciding your position on S. 1200, please consider the attached testimonies by families who have suffered the consequences of marijuana use by a loved one.

Sincerely,

Lori Robinson, M.S., R.D.
 Founder and Director-Moms Strong, LLC

Moms Strong
 638 Lindero Canyon Rd, #403 Oak Park, CA 91377
MomsStrong.org momsstronginfo@gmail.com

Shane's Story

January 6, 2016

Shane was my first-born son who grew into a handsome 6'4" young man. He always seemed larger than life and he had a big heart, infectious smile, and zest for life.

He excelled at sports, especially water sports, from a young age. Shane was a very normal, healthy teen and even weathered a back injury and surgery which made high school team sports no longer possible—so he transferred his athletic skills to wakeboarding!

When Shane moved away from home at age 19, he began using recreational marijuana (unknownst to his family). At age 22, Shane endured prolonged physical rehab to his knee following a serious boating accident. It was later realized Shane had increased his use of

"medical" marijuana as he was intolerant of the prescription pain medications.



Shane was determined to proceed with his wedding to his longtime girlfriend, and a beautiful event was held on the campus of Cal Lutheran University on August 8, 2009.

Two months from this magical day, at age 23, Shane suffered a sudden, unforeseen, abrupt change in reality. Shane's parents found him in the middle of the night (after his bride called 911 on his increasingly bizarre behavior). Shane admitted to having smoked pot but tried to reassure us "don't worry, it's just a harmless herb" though he was suffering visual and auditory hallucinations asking us if we saw the bombed out buildings and believed he had to save Obama. I knew for my son's twenty-three years of always normal, healthy behavior this drug was *anything but harmless!* Shane was hospitalized in a locked psych unit, massively drugged and he tested (+) and admitted to just one substance- (THC). **His use of marijuana was ignored by the psych facility.** Shane was diagnosed "psychosis NOS, rule out bipolar one" yet there is no family history of any severe mental health illnesses on either family line. In spite of the extensive

scientific literature Shane's mother found online about "psychosis and marijuana," the out-patient psychiatrist denied her suggestion that Shane be sent into drug rehab "your son's not some drug addict, he's just smoked pot."

Shane ultimately regained his normal mental health. He found work as a Certified Residential Electrician again and appeared to be back active, social and enjoying life. However, 18 months later Shane suffered a second psychotic break and admitted he had returned to using marijuana. Shane was re-hospitalized at a different psych facility but again, the correlation between his marijuana use and his altered reality was ignored. Upon release, his young life crumbled personally and professionally.

Shane moved away to "start anew" once psychosis abated, but he died by suicide 7 months later while in marijuana cessation—devastating his family and shocking his "band of brothers" and all their many peers. Although little is known about "cannabis-withdrawal-suicide" in this country, I strongly believe his unfathomable death is directly related to this disorder. Shane's "goodbye" note included love for his family and the haunting words "there is nothing anyone could do to have saved me—my choices led me to this point. I can't go on anymore."

Shane's family deeply regrets a life taken so young. Shane's family knows a piece of their hearts is forever missing but each of us have to hold onto the incredible, loving, memorable life that he led as a son, brother, grandson, godson, nephew, cousin and friend to so many in his short-lived twenty-five years on earth.

I'm sharing my son's unimaginable fate to make others aware of the harms of marijuana in hopes of preventing more young lives being lost & parents the agony of losing a child.

— Lori Robinson (Shane's mom)- California
<http://momssstrong.org/our-stories/shanes-story/>

BUT FOR MARIJUANA, MY SON WOULD STILL BE HERE

March 7

Marijuana First, Heroin Last

Our 17-year-old son Justin was a most unlikely victim of a heroin overdose when he died in 2008. He was an excellent student, athlete and extremely talented songwriter/musician on the verge of completing his first music album and facing a bright future. He died in his bedroom after snorting heroin just as he was about to begin his first week as a high school senior.

I believe Justin would still be with us today if it weren't for his experimentation with marijuana at age 14. Justin, like many young people, had a cavalier attitude about marijuana. But for Justin, and also for many others, the marijuana brought with it the disease of addiction.



Justin rehearsing his music



Justin and his mom



Jeffrey, Justin's Dad holding photos of his son in happier days

Justin had a normal, healthy childhood in a loving family as he pursued his passions. He was drawn to musical things as a young child, beginning piano lessons at age 6 and moving on to display a great talent for other instruments. When he was 12, we gave him an entry-level guitar and he wouldn't put it down. A few weeks later he blew us away with his first recording on the guitar. When Justin was 13, he got together with some musical friends to create a hardcore band. He played keyboard and sang with big black X's painted on the back of his hands. Those black X's, he said, stood for straight edge, or no drugs, and he proudly displayed them as he performed. But hardcore music didn't last long for Justin when he started writing lyrics for songs that told stories. By the time he was 14, he had written several, and we arranged studio time for him to record a couple of them. He continued to write and eventually completed six recordings.

But if you would think having talent and a passion for using it, as well as support from a loving family, would make a young person immune from the perils of drug abuse you would be wrong. The trouble for Justin began at age 14 when he decided to experiment with marijuana with some of his friends. When we discovered this, we laid down the law that it was not okay and brought him to counseling. After some running battles, we thought we had won the war against Cannabis, but when Justin turned 17 in his junior year of high school, he began to display symptoms we didn't understand. His moods were terrible, his work ethic diminished, he wasn't sleeping at night, and he began to skip some of his classes. He agreed to see a psychiatrist, where he was given a blood test. That blood test revealed that Justin was in over his head in substances, including opioids. That's when we staged an intervention.

We took him out of school and sent him to Caron Treatment Centers in Pennsylvania. He spent a month there and we visited every weekend. When he came home he was much healthier. He was eating right and sleeping better and there were new rules. We monitored his activities, changed his cell phone, and did all the things that were suggested. He made up his work at school and finished his junior year with good grades. On the surface, things seemed to be okay that summer; he earned our trust and had new freedoms—even going to a three-day concert in the Catskill Mountains, where he and his friends camped out.

Then there was that terrible Sunday in September as Justin was preparing for his first full week as a high school senior. He spent the day with friends we didn't know. We couldn't reach him on his cell phone. He came home late and, after eating a big dinner, he finished the work he needed to do for his first week of classes. He kicked us out of his bedroom because he wanted to get to bed. But he never woke up.

Monday morning, Justin's alarm was droning on and on. His mother went to check on him and could not wake him. Then there was a desperate call to paramedics, which ended in a parent's worst nightmare. Justin had died. "Acute drug intoxication" were the words later used by the medical examiner to describe the cause of death. It turns out that, on top of some recreational drugs, Justin had snorted heroin and became another drug victim.

After Justin died we created The Justin Veatch Fund, a non-profit organization to honor his legacy with scholarships and music programs for talented teens. Justin's music, along with covers recorded by artists he had admired, was released in the album *Permagrin*, the name Justin had chosen himself. Polyvinyl Records distributed the CD because one of the covers was recorded by signed artist Mike Kinsella, a favorite of Justin's, who tours as Owen. Justin's music has since been sold or streamed in more than 30 countries.

But after all of that, nothing we have done to honor Justin's memory has been more important to me than my 40-minute multimedia talk to teens. "A Message from Justin" has been presented to thousands of students with the goal of inspiring them to take better care of themselves and to watch out for their friends.

Our story is also told in the independently produced short documentary *Whispering Spirits*, which can be viewed and obtained free of charge through its website whispering-spirits.com.

Jeffrey Veatch, President The Justin Veatch Fund (914) 772-1254 thejustinveatchfund.org <http://momstrong.org/2018/03/07/but-for-marijuana-my-son-would-still-be-here/>

MARIJUANA: FOREVER UNFORGIVEN BY THIS FAMILY

March 22, 2019

Our son David

David was our middle child of 5. He was a happy boy with a ready smile and a zest for life. He was raised in a Christian home with a family that loved him. He attended church weekly and memorized Scripture for the Awana program as well as for the private Christian school he attended. He believed in Jesus and was baptized by his great uncle at age 6. At around age 13, his smile disappeared, and he changed from an honest God loving boy to what appeared to be a rebellious troubled teen. Simultaneously, his mom was diagnosed with metastatic breast cancer and the family became involved in the fight for her survival. We weren't sure what was happening with David for some time and attributed his changes to puberty.

He researched the internet about marijuana and was convinced it was safe and was his answer. He felt it was all good. He said it helped his "social anxiety". He felt he could finally talk easily to his peers and felt accepted. In 9th grade he was kicked out of the private school for buying a joint from an older student on the football team. He was kicked out and placed in a large public school in the middle of the Spring semester.

It was a tough transition. David felt like a loser. The boys he'd grown up with were no longer there for his support. They attended our church, and David got to where he didn't want to go. He spent more time with a friend that introduced him to pot and picked up an interest in heavy metal music with a demonic leaning. He was in complete rebellion. We got him into weekly counseling, but made no progress turning him back around. High school was a challenge. Marijuana combined with a diagnosis of ADD (Attention Deficit Disorder) and his low self-esteem was a toxic combination. David lost any desire to succeed at school or anything else. He became apathetic with no motivation for life. There were times when he'd get into alcohol and become angry and combative. Several times we called the police to our home. He ran away for short periods numerous times. On a family trip to Vail the summer before 11th grade, he tried to sell us on the "merits" of weed. He'd found a website that supported cannabis use from a religious perspective. God made it and gave us receptors for it he argued.

In spite of the turmoil, David graduated from high school, but on graduation day, he stayed in his dark room with no intention of attending the ceremony. A few months after graduation, a local plumber gave him a job as a plumbers assistant. He liked the job and did well at the start. Unfortunately, a paycheck enabled him to buy and smoke more pot.

He was becoming more and more disrespectful to his Mom and me. We set some house rules. No substances and he must respect us and keep a job to be allowed to stay at our house. Labor Day weekend 2018, he smoked weed anyway and drank cough syrup with dextromethorphan. We discovered it wasn't his first time using other substances along with marijuana. He had developed a fascination with "psychedelics" and wished to escape reality.

We packed him a suitcase and put him out. He stayed with a coworker, sleeping on his sofa for 7 weeks before he returned home. He promised he would not do substances and would respect us, so we welcomed him back in. Before long, however, we noticed him acting strangely. We noticed inappropriate smiling and squinting of his eyes. We drug tested him and found his urine positive for THC, so we took his truck keys. We told him once his urine was negative for THC, he could have his keys back. He never got them back.

By Thanksgiving, we noticed a big change in his behavior. He would isolate himself and appear catatonic. We caught him several times sitting or standing in his blacked out room. The day after Thanksgiving, he slept most of the day. He got up in the afternoon and stabbed himself in the right palm with two deep cuts. After stitching him up, we admitted him to a mental health facility. He was there 6 days when he was discharged. The diagnosis from the hospitalization was Major Depressive Disorder with psychosis. We protested his discharge, but David got in my face and said,

"Dad, don't leave me here! This place is not what it appears! They do not care about you!" I assured him we would not leave him. There had been no discharge recommendation for what to do afterwards but we arranged for him to enter an outpatient program.



On the 4th day of the outpatient program, David was let out at 1:30. He went home, smoked weed in the woods on the back of our property, came inside, got a handgun from the safe and shot himself in the head. I found him still alive, but unconscious. It was a fatal wound.

We miss our David.

Tragically, my son was a victim of marijuana induced mental health impacts that led him to take his life. The relationship of depression, anxiety, panic and psychosis with cannabis use is well established. Heavy users have 7 times increased risk of suicide. Pot caused my beautiful son to take his life during a psychotic break. What he thought helped his social anxiety and depression, actually did just the opposite. I am thankful that David knew the Lord at an early age. I know where he is and I know I will see him again, but dear God how we miss him! Please do not start down the road that took my son's life.

Story submitted by Dr. James Childs. jnchilds@gmail.com <http://momsstrong.org/2019/03/22/marijuana-forever-unforgiven/>

LETTING GO OF MJ: A CYCLE OF ABUSE

April 14

By J. Belsher

After a decade of ups and downs this time was different.

Ever since he met the love of his life, MJ, things were complicated. He obsessed about her day and night. At first she was kind to him, made him feel special, but then she would turn around and hurt him. After a while, his injuries began to land him in the hospital. He would declare that he was never going to have anything to do with her again. He would admit that she was bad for him and he was ready to let her go. Yet, soon after getting out of the hospital, she would find her way back to him.

He couldn't resist her. He loved everything about her—the way she smelled, the way she tasted, the way she touched him and made him feel. She was not cheap. In fact, he spent every dollar he had on her. Even if it meant no food that month. He'd rather not eat, than let her go. He was consumed with her. She was his everything, his religion, his medicine, his constant.

Occasionally, logic would seep in and he would truly understand that her effects on him were tearing him apart. He couldn't sleep well anymore. He wasn't getting proper nourishment—instead he was eating fast food and junk from convenience stores. Then he began smoking cigarettes, hoping it would help with the anxiety he developed from chasing her. He tried alcohol to soothe his soul, but it was not of much interest to him.

Eventually he lost his friends. They were not equipped to handle the depression he was in. Depression that caused him to lash out and rage. He pushed away his family. They were simply unaccepting of MJ and refused to let her in their house.

His parents said he was no longer welcome in their home, but relented this one last time, willing to give it one more try and see if he was ready to let her go.

At first he was so detached from reality that he suspected the food in their kitchen was poison. He suspiciously looked at his loving parents and accused them of being controlling and plotting something against him. They feared his state of mind and prayed he wouldn't do anything foolish. During the day he would walk—miles and miles and miles. Said he needed to think. Sometimes he would walk in the middle of the street and shout out to the cars. His rants were friendly “how ya doin’ sir” “have a beautiful day ma’am.” And even though he was forbidden to see MJ, she would sneak in and find him. He would inhale her beauty. They were once again caught together and he was given a choice to stop seeing her or leave their home. He said he'd leave. He was gone four hours. As the winter cold set in and the dark began to fall, he called and surrendered. “I am ready to do a program, I'm ready to let her go, but only because you are forcing me,” he said.

They decided that however they could get him healthy, even if by “force,” would be a chance for change.

So, the next day he signed up for a counselor and a class. He said he was going to cooperate and wanted to do the right thing. He had to get all traces of MJ out of his room. He still had some of her things. He reluctantly gave them to his parents, and they disposed of them.

Everything was progressing. Was it maturity—as some said might be helpful? Or was it fear of no place to go, no place to live, nothing to eat? He seemed resigned to living without MJ once and for all. He said, “you'll see, I can do this.”

It wasn't going to be easy. Unfortunately, she was everywhere. She was revered by the public. She was up on billboards, in magazine ads, everyone was talking about her wherever he'd go. She was popular, a natural. She came from the earth and was environmentally green. How was he going to resist her enticing beauty?

Yet, he managed to go to the meetings, calm his brain and slowly began to regain some normalcy. He trusted more, Ate food from his parents' kitchen. One day he laughed out loud. His mother cried hearing his joy. It had been a long time since she heard him laugh. He spent his days writing music and recording on his mother's computer. Songs of frustration, songs of love, songs of loss. MJ was in many of his songs. Singing made him happy. It was a release for him. He was finally emerging from his dark place.

He began planning. He thought driving Uber would be a good job for him. One where he could set his own hours. A job that would be on his terms, yet would keep him from isolating. He asked his parents to help him get started. They agreed. But they needed to see him free from her for at least a few months before they would invest. He was excited.

Light began to shine in and the changes were promising. She was finally gone. He stopped talking about her. And although he could see her being promoted in town, he stayed away from her. Winter turned to Spring and hope was in the air. Was this going to be the time? After 10 years of turmoil, will he finally get traction in his recovery? Everything was in place for that to happen. The benefits were plentiful and he was engaged in plans for his future.

Until, one day out of nowhere, she returned. She begged him to come back. She promised him she'd be everything to him. She told him she had changed and that he was stronger too now and he could manage better. He quickly forgot about the hurt, the physical and emotional pain and trauma. He forgot about the depression, the anxiety, the hospitalizations, the loss of relationships, the financial drain. He forgot about all he'd achieved in her absence. About his well-being.

He took her back. They are together again, lost in a haze of delusion. His family weeps. They know what lies ahead in the cycle of his addiction to MJ. They lock their door and hope he can find his way, this time, on his own.

J. Belsher created and directed a documentary film about the dangers posed by cannabis to the developing brains of our youth. The film is available to educational institutions through Alexander Street Press (alexanderstreet.com) It is also available to the general public through the film's website. Visit the website, www.oscdoc.com, or for more information write: info@oscdoc.com. jbelsher@icloud.com <http://momstrong.org/2018/04/14/letting-go-of-mj/>

I BLAME MARIJUANA AND I WISH WE HAD NEVER MOVED HERE

September 2016

Part 1 of 2, See Part 2 Published April 2019

Born in Massachusetts, our son started out life with a very bright future. As a toddler he was interested in things with wheels and anything his big sister was doing. As he got older, Legos became his obsession. In his early school days he tended to get really into a subject, even apart from school. For a while it was the Russian language and then it was the Periodic Table. He begged me to buy him a 2½-inch-thick used Chemistry textbook before he was a pre-teen, and I did.

I was able to be a stay-at-home parent until our son was 8. I tried to do all the right things. We played outside, limited screen time, and got together with other little ones and their moms for play groups. I read to him and his sister every night until they both reached middle school and wouldn't let me anymore. Our son routinely tested in the 99th percentile on standardized tests and at least 3 grade levels above. Now, at age 17, he has dropped out of high school.

My husband and I both have Master's degrees, and my husband is a public school administrator. His father is a retired architect. My mother is a retired elementary school teacher. Our family believes in education, we believe in learning and growing. When asked why he continues to use drugs, mostly marijuana, my son said, "I think it's because of the people we're around."

In reflecting back on "What happened?" I blame marijuana. We now live in Colorado, where marijuana is legal and widely available to everyone. I wish we had never moved.

How it All Began

My son's first time using was in 7th grade, when marijuana was legal only if used medicinally with a "Red Card" and a physician's recommendation. Coloradans voted on legalization in November 2012 and marijuana stores opened in January, 2014. But back in 2012, he and some buddies got it from a friend's older brother who had a Red Card. From what I can tell, the use just kept escalating until his junior year in high school when he was using at least once a day...and when he attempted suicide.

Between that first incident in 2012 and the suicide attempt in 2015, his father and I waged an all-out battle on the drug that was invading our home. We grounded him; I took to sleeping on the couch outside his bedroom because he was sneaking out in the middle of the night; we yelled and screamed; I cried, we cajoled and tried to reason with him; "You have a beautiful brain! Why are you doing things that will hurt your brain?"

We did weekly drug tests, we enlisted the school's support, we enlisted our family's support, and we even tried talking to his friends.

But nothing worked. Our son was in love with marijuana. Our sweet, smart, funny, sarcastic, irreverent, adorable boy was so enamored with this drug that nothing we did — NOTHING — made any difference. And we slowly lost him.

At the same time I was battling marijuana at home, I was also leading a group in our community to vote against legalizing it in our small town. I had teamed with a local business-owner and a physician, and the three of us got the support of many prominent community members, including the school superintendent, the police chief, and the fire chief. We ran a full campaign, complete with a website where you could donate money, a Facebook page, and yard signs.

My son's use isn't the reason I got involved. I had started advocating against marijuana legalization long before I even realized he had a problem. My background is in health communication and I work in the hospital industry. I sit on our local Board of Health, so allowing retail stores to sell an addictive drug just doesn't make any sense to me. I did think about my children: what I was modeling for them; what kind of community we were raising them in, and the kind of world I envisioned for their future. Those are the reasons I got involved.

My son's use is actually the reason that I've pulled away from any sort of campaigning.

Unfortunately, we lost our fight. In 2014, it became legal in our small town to purchase pot without a Red Card. And the following year, his junior year, he almost slipped away from us forever.

Pot Seemed Everywhere

His use by then had escalated to daily (and I suspect often more than once a day). Pot seemed to be everywhere! We found it hidden all over the house — in the bathroom, on top of the china cabinet, in his closet, outside, even in his sister's bedroom. It's a hard substance to hide because of the strong smell. Even in the "pharmacy" bottles and wrapped in plastic bags, the skunk stench still manages to seep out. But it sure seemed easy for a young boy to get!

He started leaving school in the middle of the day, or skipping school altogether, and his grades plummeted. Where he was once an A/B student and on the varsity cross-country team, he was now failing classes and not involved in anything. This boy who had tested in the 99th percentile was failing high school. And this boy who had once been the levity in our home, who used to make me laugh like no one else could or has since, this boy became a stranger.

Our son withdrew from everything except his beloved drug. His circle of friends (never big in the first place), was reduced to only those who could supply him with marijuana. His relationship with his older sister all but disappeared. And his relationship with his father has been strained beyond almost all hope of repair.

Then, in late 2015, our son attempted suicide. He was hospitalized, first overnight at the very hospital where I work and then for a 3-day locked psychiatric unit stay. I remember very little from this difficult (and surreal) time except learning that it wasn't his first attempt, and that he blamed us for how awful he felt. He started taking an antidepressant, and after he was released we took him to a drug counselor for a total of three visits, but after that he refused to go — he threatened to jump out of the car if we tried to take him. We tried a different counselor and that only lasted for one visit.

Changing Strategies and a Truce

At this point I convinced my husband that we had to approach things differently, because obviously what we were doing wasn't working. We stopped the weekly drug tests (we knew he was using so there seemed to be no point anyway). We stopped yelling and punishing. And basically my husband stopped talking to our son altogether — they are both so angry and hurt that any communication turns toxic very quickly. He refused to go back to school, so we agreed that he could do online classes.

There is an uneasy truce in our home right now. Now it just feels like waiting. Waiting for what will happen next. Waiting for the other shoe to drop.

Our son, 17, still lives with us. His sister left for college this past summer. I acknowledge that he uses pot and doesn't want to quit, but I continue sending the message that it's not good for his brain. The one thing my husband and I won't bend on is no drugs on our property. He has started five different online classes, but so far has finished only one. He doesn't feel any pressure to finish school — he says he'll get a GED, but hasn't made

any effort towards that end. He doesn't drive and doesn't express any desire to learn, which is probably good because I doubt he could be trusted to drive sober. He started working at a local restaurant recently and has been getting good feedback from his managers, which I take to be a positive sign.

I'll take any positive signs at this point!

Trying Something Else and Blacking Out

I don't know if the suicide attempt and hospitalization were rock bottom for our family, but I suspect not. Just this past weekend our son came home and I could tell he was on something—and it wasn't marijuana or alcohol. I checked him periodically throughout the night, and in the early morning he woke up and asked me how much trouble he was in. I replied that it depended on what he had taken. He said Xanax. He also said that he had blacked out and couldn't remember anything that had happened from about an hour after he took it.

Later in the morning, when we were both more awake, I asked him about the Xanax (he got it from someone at the restaurant) and the pot use and what he saw for his future. He has no plans to stop using, but said that he probably wouldn't take Xanax again (he didn't like blacking out).

He said that he's very happy with his life right now, that he knows a lot of people who didn't go to college and work two or three jobs and live in little apartments, and that he's happy with that kind of future for himself.

I tried not to cry. Imagine that as the goal for a boy who started life with so much curiosity and such a desire to learn!

It's not that I don't think he can have a good and decent life without a college education. But I know that he'll have a much harder life. Statistically, Americans with fewer years of education have poorer health and shorter lives (partly due to lack of adequate health insurance), and Americans who don't have a high school diploma are at greatest risk. It's not just life without a college education, but it is life with a brain that has been changed by marijuana. Will he be able to give up pot? If he does give up pot, will he recover the brain he had at one time? Will he lose motivation?

I asked him why he used pot when he knew how his father and I felt about it, and when we had tried so hard to steer him in a different direction.

He said, "I think it's because of the people we're around. And all the drugs that are around." I've finally accepted that his use is not in the range of normal teenage experimentation, and I'm barely surviving on the hope that he'll eventually grow out of it...and that he doesn't do any permanent damage. In the meantime, I'm sorry that we ever moved here.

Kari Kilroy, Colorado mom

kilroys4@yahoo.com

719-339-6226

<http://momsstrong.org/2016/10/08/blame-marijuana-wish-never-moved/>

I BLAME MARIJUANA AND I WISHED WE HAD NEVER MOVED HERE

April 19, 2019 Part 2, See Part 1 below

by Kari Kilroy

I thought our family had hit rock-bottom in late 2015 when our 16-year-old son attempted suicide by overdosing. He was hospitalized for 3 days in a locked psychiatric facility (per Colorado law). We were able to visit him once a day, in the

evenings. We emptied our pockets and surrendered our cell phones, then lined up with the other parents to sit against a wall in a gym for an hour while our son begged and berated us to get him out.

Our older daughter moved out of our house to live with my mother so she could concentrate on finishing her senior year of high school. That broke my heart almost more than anything else that had happened so far. That I couldn't provide a safe, calm home for my child was almost too much to bear.

Our son attempted again on Christmas Eve 2016. We didn't hospitalize him that time. But we did learn that in addition to high-potency cannabis, he was also using Xanax, Dilaudid, Oxy, and smoking heroin and meth. Basically, he used anything he could get his hands on.

In January 2017, he got into a physical altercation with another boy and the police got involved, with the city pressing charges. It was around that time that I learned about an outpatient drug treatment program for kids ages 11-24. Substance Abuse Treatment Education & Prevention (STEP) is located at Denver Health. We set up monthly appointments with psychiatrist Dr. Chris Thurstone and weekly visits with an addictions counselor. It was a 4-hour round trip from our home (including the visit), and I work full-time, but it was the only thing I could find for an addict under age 18. Luckily, my job was very understanding and I was able to schedule early-morning or late-afternoon appointments so I would have time to get back to work or start at work and then leave mid-day. Those were exhausting days.

A few months after starting with the STEP program, we learned that our son's girlfriend, who is also an addict, was pregnant; she chose to have an abortion and that situation steepened our son's downhill decline. He attempted suicide again (by hanging) and was discovered unresponsive by my mother and sister-in-law. This time he was hospitalized in a facility three hours from our home (so visiting him was a 7-hour round trip). He was diagnosed with Major Depressive Disorder, Generalized Anxiety Disorder, Opioid Use Disorder Severe, and Polysubstance Abuse.

After the 3-day mandatory stay, he was released to us despite recommendations from the facility physician and Dr. Thurstone that he go into an inpatient drug rehab facility (a door-to-door transfer). But there were no facilities with available beds in a 300-mile radius taking underage kids (including the facility where he was hospitalized) so we had no choice but to take him home.

With help from my mother, I searched for local outpatient counseling options and found only a handful in our area, and the ones that accepted my insurance only take patients 18 or older. So I continued driving him to Denver. My mother drove him for some of the weekly appointments, but long drives hurt her knees. My husband was too angry to be alone in the car with our son for that extended period of time; I was sincerely fearful of what might happen.

On June 5, 2017, the day of his 18th birthday, our son completely destroyed his bedroom including the furniture and walls. We discovered the completely trashed room when we came home from work and that was the final straw for me. He wasn't there so I messaged him that because of what he had done, he could not live at home anymore. He couch-surfed and lived on the streets for most of that summer until both he and his girlfriend moved in with her mother (in a different town). That lasted until the girlfriend's mother started using meth (again). Then they moved in with her father in Pueblo, CO (also known as the Napa Valley of pot).

Our son's girlfriend turned 18 in December 2017 and gained access to some government money so they moved out of her father's house and came back to our town where they stayed in a motel until my mother took pity on them and, against my advice, let them live with her. Less than a month later, she discovered them in her guest room passed out with a needle—they were both injecting heroin.

Between all of this were court dates for the January 2017 fighting incident. The judge was lenient with our son as long as he was trying to get better (in counseling or rehab). And even though our son was now a legal adult, since the incident happened before he turned 18, the judge required that my husband and I attend all court hearings (which meant more time away from work). Once our son moved in with my mother, he also required her to attend court.

February 5, 2018 our son was admitted to West Pines Behavioral Health in Westminster (Denver). He lasted until February 12 when he was kicked out for sharing his medication with another patient. Now that he was 18, I was pretty

quickly able to find another rehab facility that would take him (NorthStar in Boulder, CO) but he refused to go. He and his girlfriend lived with her sister until she kicked them out for stealing from her.

My husband and I went away during Spring Break that March. A trip we used to help repair our marriage, which had gotten so shaky that both of us were thinking of moving out. Since 2012 we had been battling the addiction that had taken over our son, our home, and our family. We blamed each other – I was too soft, he was too hard. We were lonely and miserable. We visited my sister in Madison, Wisconsin (but stayed in a hotel) and we had a lovely time. We were cautiously making our way back to each other.

But when we returned, we found that our son and his girlfriend had broken into our home and stolen several items, including a crystal bowl that had been a wedding gift and a ring that had been my grandmother's. They also took and forged checks totaling \$800 (the checks were made out to and cashed by the girlfriend). We are still to this day discovering things they took. Every time my husband goes to do a home project he finds that a tool he needs is gone, further fueling his anger.

By this time the prosecutor decided that our son had had enough chances and the judge set a trial date for May 15, 2018. When the date came, our son didn't show up and it subsequently was discovered that the county had a felony warrant out for his arrest. It seems my son and his girlfriend, besides breaking into our house, had robbed a 7-11 at gunpoint. My son claims the gun wasn't loaded, and I really hope that is true, but it probably doesn't matter much to the clerk who had a gun in his face.

Our son served 5 months in the county jail. We refused to bail him out. I knew that doing so would mean his death, or worse, someone else would get very hurt. He was eventually sentenced to 7 years in ComCor, which is an organization the state of Colorado contracts with to provide housing, rehab, and other treatment services for convicted felons. It's used as an alternative to prison and/or as a halfway placement between prison and full release. My beautiful boy has been given a last chance before doing hard time. As I write this, he is finishing the 2nd month of a 90-day intensive residential treatment program.

From a promising start of testing in the 99th percentile and at least 3 grade levels above, we are now just happy that our son is still alive and off the streets. If he finishes the IRT program, he'll be transferred to a work-release unit to complete his 7-year sentence. If he messes up by using drugs or running, he'll spend those years in a Colorado State prison. This June 2019, he'll celebrate his 20th birthday locked up with other felons.

Our son has seen three different psychiatrists, two addictions counselors, and two "regular" counselors. He's been hospitalized twice and in an inpatient rehab program once. We've tried countless medications including Ritalin, Lexapro, Concerta, Trazadone, Wellbutrin, Atarax, Buspar, and Suboxone. He's now a ward of the state. And all of this began with marijuana legalization in Colorado so that "responsible adults could use responsibly".

My son said to me that he probably wouldn't be here (in jail, addicted to heroin and meth) if he hadn't started using marijuana.

<http://momsstrong.org/2019/04/19/i-blame-marijuana-and-i-wished-we-had-never-moved-here/>

Kari Kilroy, Colorado mom 719-339-6226 kilroys4@yahoo.com



CONCERNS ABOUT CBD

By: David G. Evans, Esq. * CIVEL

The marijuana industry referred to here are those who illegally, negligently or fraudulently produce, market, or distribute marijuana.

What is CBD?

Cannabidiol (CBD) is a derivative of marijuana and one of the main active ingredients in the marijuana plant. There are two types of CBD. There is Epidiolex, a pure form of CBD approved by the FDA as a medicine but only for the treatment of two seizure syndromes. There is also non-FDA approved CBD that is defined as "Commercial CBD" for the purposes of this paper. Commercial CBD used as a medicine or in food is illegal under federal law and in some states. [1]

The chemical in marijuana that causes the high (and many of its other effects) is delta-9 tetrahydrocannabinol, or THC. But there are over 100 other cannabinoid chemicals in the plant; CBD is one of those. Different cannabinoids can have very different biological effects. [2]

False claims for CBD

The marijuana industry has touted commercial CBD as a "wonder drug." They may claim it is perfectly safe and legal and can be used for all that ails you or makes you uncomfortable physically. People are consuming large amounts under the misapprehension that it is safe to do so. It is not safe to do so. It has negative side effects and may interfere with the functioning of other medications.

Multiple Studies Show That Commercial CBD Products May Not Be Pure and May Have Negative Side Effects

The Food and Drug Administration (FDA) has issued several warning letters to firms that market Commercial CBD that they are selling CBD illegally. These products are not approved by FDA for the diagnosis, cure, mitigation, treatment, or prevention of any disease. The FDA has also tested the chemical content of cannabinoid compounds in CBD, and many were found to not contain the levels of CBD they claimed to contain. [3] Consumers should beware purchasing and using any such products.

The Journal of the American Medical Association (JAMA) published a research letter showing the results of "undercover" purchases of CBD from Internet sources. Of 84 samples obtained and tested, THC was detected in 21%. There were other defects in the mislabeled products noted by the undercover agents. For example, 26% of the 84 products contained less CBD than labeled. With respect to CBD, 42.85% of products were underlabeled 26.19% were overlabeled and only

30.95% were accurately labeled. Accuracy of labeling depended on product type, with vaporization liquid most frequently mislabeled 87.50% and oil most frequently labeled accurately 45.00%. Concentration of unlabeled cannabinoids was generally low however, THC was detected in 21.43% cannabidiolic acid 15.48% and cannabigerol 2.38%. This yielded a good deal of information suggesting that open-source CBD bought on the Internet is not a very reliable or safe product if one is planning to use it for medical purposes or in foods. [4]

On December 8, 2017, the Utah Poison Control Center (UPCC) notified the Utah Department of Health (UDOH) of reports of emergency department visits associated with reported exposure to products labeled as CBD. Patients experienced adverse reactions, including altered mental status, seizures, confusion, loss of consciousness, and hallucinations. These reactions prompted concern for potential adulteration with a synthetic cannabinoid. Sale of CBD is currently illegal in Utah, although CBD is readily available online and in shops. This investigation highlights the hazards of consuming unregulated products labeled as CBD. [5]

A Johns Hopkins researcher reports that the vast majority of edible marijuana products sold in a sample of medical marijuana dispensaries carried labels that overstated or understated the amount of THC. The results of the study suggest some medical marijuana patients could be unintentionally overdosing or are being cheated by mislabeled products. "If this study is representative of the medical cannabis market, we may have hundreds of thousands of patients buying cannabis products that are mislabeled," says experimental psychologist Ryan Vandrey, PhD, an associate professor of psychiatry and behavioral sciences at the Johns Hopkins University School of Medicine. People could suffer from overdosing side effects, including extreme anxiety and psychotic reactions. The study collected 75 different edible marijuana products - baked goods, beverages, and candy/chocolates - representing 47 different brands from Washington state and California. Only 13 products were accurately labeled. They also tested the products for cannabidiol, or CBD, another of the active ingredients in marijuana believed to have medical benefit, which may also help reduce the side effects of THC. Testing showed 44 products (59%) had detectible levels of CBD, but the average ratio of THC to CBD was 36-to-1. Only one product had a 1-to-1 ratio, which some research suggests is associated with fewer side effects and improved clinical benefit compared with higher ratios of THC to CBD. What the testing indicates that a lot of what's available in the edible cannabis market may have very little CBD. [6]

Another report published by the National Institute of Health showed that products were mislabeled with 26% containing less CBD than labeled and 43% containing more, indicating a high degree of variability and poor standardization of online products. Notably, the oil-based products were more likely to be accurate (45% compared to 25% for tincture and 12.5% for vaporization liquid) and had a smaller percentage of deviation. Oil based products also had a higher range of concentration. In addition to CBD mislabeling, THC was detected in 21% of samples. This study also notes that products containing THC could have sufficient enough concentrations to produce intoxication in children. [7]

CBD Negative Side Effects

Drug Contraindications

CBD oil may potentially interact in a negative way with anti-epilepsy drugs such as:

1. carbamazepine (Tegretol)
2. phenytoin (Dilantin)
3. phenobarbital (Luminal, Solfoton, Tedral)
4. primidone (anti-seizure) [8]

There are interactions with CBD and immunosuppressive drugs used in transplants or chemotherapy and there are interactions with warfarin as there may be the potentiation of anticoagulant effects with marijuana, including CBD. [9]

Common Side effects

The most common side effects of CBD can include:

Sleepiness
 Decreased appetite
 Diarrhea
 Change in liver function
 Fatigue
 Malaise
 Asthenia (weakness or lack of energy)
 Rash
 Insomnia
 Sleep disorder
 Poor quality sleep
 Infections
 CBD also interacts with some other seizure medicines.
 Nausea or vomiting
 Dizziness
 Anxiety or depression
 Changes in appetite/weight [10]

Research published in the journal Cannabis and Cannabinoid Research shows that more than 40% of children with epilepsy who were given CBD orally had adverse events that included THC like symptoms. The research challenged the widely accepted premise that CBD is not intoxicating.[11]

Glaucoma

A recent study suggests that CBD doesn't lower eye pressure but raises it. High eye pressure is the primary risk factor for glaucoma, a leading cause of blindness. Glaucoma damages the optic nerve at the back of the eye. Glaucoma is linked to a buildup of pressure inside the eye. The increased pressure can damage the nerve, leading to permanent vision loss. [12]

Even Epidiolex Has Negative Side Effects

In June, 2018, the FDA approved Epidiolex® (cannabidiol, CBD) oral solution for the treatment of seizures associated with two rare, severe forms of epilepsy - Lennox-Gastaut syndrome and Dravet syndrome - in people two years of age or older. The FDA approved a purified form of CBD. The FDA was quick to note however, that this is not an approval of marijuana or all of its components. This is the approval of one specific CBD medication for a specific use. And it was based on well-controlled clinical trials evaluating the use of this compound in the treatment of a specific condition. Moreover, this is a purified form of CBD. It's being delivered to patients in a reliable dosage form and through a reproducible route of delivery to ensure that patients derive the anticipated benefits. This is how sound medical science is advanced. However, use should not be taken lightly due to the number of side effects that are being seen with this product.[13]

We must assume that since it is manufactured according to FDA standards, by a reliable manufacturer, that is free from contaminants. This purity is not guaranteed by the commercial CBD products that are not manufactured according to FDA standards.

Even Epidiolex has risks. Other CBD products share these risk but the marijuana industry has for the most part not warned about those dangers to those people who use their CBD products. The below information, unless cited otherwise, comes from the FDA-required package insert warnings and precautions for Epidiolex. [14] The most common warnings are about:

1. Hepatocellular Injury (liver injury)
2. Somnolence and Sedation
3. Suicidal Behavior and Ideation
4. Hypersensitivity Reactions
5. Withdrawal of Antiepileptic Drugs

Liver Injury

Epidiolex can cause liver enzymes to be elevated. Elevated liver enzymes can indicate inflammation or damage to cells in the liver because inflamed or injured liver cells leak higher than normal amounts of certain chemicals, including liver enzymes, into the bloodstream, which can result in elevated liver enzymes on blood tests. It is important to measure hepatic (pertaining to the liver) laboratory values and having them evaluated by the healthcare provider before treatment with Epidiolex and periodically during treatment. There may be signs or symptoms

suggestive of hepatic dysfunction such as unexplained nausea, vomiting, abdominal pain, fatigue, anorexia, or jaundice and/or dark urine, loss of appetite, itching, fever, feeling unwell, unusual tiredness, unusual darkening of the urine or right upper stomach area pain or discomfort. Commercial CBD that is not approved by the FDA is sold all over the United States without warnings about liver damage. [15]

Somnolence and Sedation

People should be cautioned about operating hazardous machinery, including motor vehicles, until they are reasonably certain that Epidiolex does not affect them adversely (e.g., impaired judgment, thinking or motor skills). Other medicines (e.g., clobazam) or alcohol may increase sleepiness. Commercial CBD is sold all over without such warnings.

Suicidal Thinking and Behavior

Use of Epidiolex, may increase the risk of suicidal thoughts and behavior. Commercial CBD is sold without warnings about this.

Hypersensitivity

Hypersensitivity reactions can occur with use of Epidiolex. This is when the body reacts with an exaggerated immune response to a foreign agent such as in anaphylaxis or allergy. People need to be warned about this.

Withdrawal of Antiepileptic Drugs

Epidiolex should be gradually withdrawn to minimize the risk of increased seizure frequency and status epilepticus.

Children

It is not known if Epidiolex is safe and effective in children under 2 years of age.

Interactions with other medications

Epidiolex may interact with other medicines, including prescription and over-the-counter medicines, vitamins, herbal supplements, and any cannabis-based products. Epidiolex may affect the way other medicines work, and other medicines may affect how Epidiolex works. People should not use CBD until they are evaluated by a health care provider.

Drug tests

Epidiolex may affect drug test results.

Adverse Reactions

Adverse reactions include:

- somnolence
- decreased appetite
- diarrhea
- transaminase elevations (liver problems)
- fatigue
- malaise
- asthenia (loss of strength and energy)
- rash
- insomnia
- sleep disorder
- poor quality sleep;
- infections. [16]

Pregnancy

There is not adequate data on the developmental risks associated with Epidiolex use by in pregnant women. Administration of CBD to pregnant animals produced evidence of developmental toxicity such as increased embryofetal mortality in rats and decreased fetal body weights in rabbits; decreased growth, delayed sexual maturation, long-term neurobehavioral changes, and adverse effects on the reproductive system in rat offspring.

There are not good data on the presence of cannabidiol or its metabolites in human milk, the effects on the breastfed infant, or the effects on milk production. The developmental and health benefits of breastfeeding should be considered along with the mother's clinical need for Epidiolex and any potential adverse effects on the breastfed infant from Epidiolex or from the underlying maternal condition.

Geriatric Use

Clinical trials of Epidiolex did not include any patients aged above 55 years to determine whether or not they respond differently from younger patients. Dose selection for elderly persons should be cautious reflecting the greater frequency of decreased liver or cardiac function, and of concomitant disease or other drug therapy.

Conclusion

Epidiolex, a purified form of CBD has some risks and should only be used while medically supervised. Commercial CBD has many risks but may not have any safeguards.

*** About the author**

David G. Evans, Esq., is Senior Counsel for the Cannabis Industry Victims Educating Litigators (CIVEL) who educate lawyers on how to make the marijuana industry accountable to their many victims. Mr. Evans was a plaintiff's litigator in personal injury and employment law cases. Attorneys who desire more information can contact Mr. Evans at seniorcounsel@civel.org. The CIVEL website is: www.civel.org

Before opening up his law practice in 1992, he was a Research Scientist in the Data Analysis and Epidemiology Services Unit, Division of Alcoholism and Drug Abuse, New Jersey Department of Health. He analyzed legal and regulatory requirements regarding: drug and alcohol abuse, research and data collection, courts, criminal justice, domestic violence, drug-free workplaces, juveniles, confidentiality, treatment, drug testing, AIDS, drug use forecasting, and discrimination.

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State orders stores to remove edibles with CBD from their shelves

<https://www.pressherald.com/2019/02/01/state-orders-stores-to-remove-edible-cbd-from-shelves/>

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Officials in Ohio raid CBD sellers, order products removed.

<https://www.cincinnati.com/story/money/2019/02/04/local-cbd-products-under-scrutiny-for-food-safety/2766115002>

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MARIJUANA USE AND MENTAL ILLNESS AND BRAIN DAMAGE¹

By David G. Evans, Esq. * CIVEL

The Rise in Marijuana's THC Levels Contributes to the Mental Illness of Marijuana Users

An article published in the British Journal of Psychiatry states:

It is now incontrovertible that heavy use of cannabis increases the risk of psychosis. There is a dose-response relationship and high potency preparations and synthetic cannabinoids carry the greatest risk.²

Marijuana products today can be up to 99% THC, the psychoactive chemical in marijuana.³ The amount of THC in marijuana has been increasing steadily over the past few decades. The exposure to higher THC levels results in a greater chance of harmful reactions including mental illness.⁴

The risk of negative mental health effects is increased about 5 times by regular use of high potency marijuana.⁵ While a psychotic reaction can occur following any method of use, emergency room responders see an increasing number of cases involving marijuana edibles. Some people (especially preteens and teens) don't realize that it takes longer for the body to feel marijuana's effects when eaten rather than smoked. So they consume more of the edible, trying to get high faster or thinking they haven't taken enough. In addition, some babies and toddlers have been seriously ill after ingesting marijuana or marijuana edibles left around the house.⁶

¹ For testimony and victim's stories on mental illness and marijuana please go to: <http://momsstrong.org>

²

<https://www.readbyqxdm.com/read/29557759/cannabis-and-psychosis-what-do-we-know-and-what-should-we-do>

³ <https://herb.co/2017/03/29/thc-a-crystalline/>

<https://www.drugabuse.gov/publications/drugfacts/marijuana>

⁴ <https://www.drugabuse.gov/publications/drugfacts/marijuana>

⁵ Di Forti M, Marconi A, Carra E, Fraietta S, Trotta A, Bonomo M, Bianconi F, Gardner-Sood P, O'Connor J, Russo M, Stilo SA, Marques TR, Mondelli V, Dazzan P, Pariante C, David AS, Gaughran F, Atakan Z, Iyegbe C, Powell J, Morgan C, Lynskey M, Murray RM. Proportion of patients in south London with first-episode psychosis attributable to use of high potency cannabis: a case-control study. *Lancet Psychiatry*. 2015;2(3):233-238.

⁶ <https://www.drugabuse.gov/publications/drugfacts/marijuana> August 2017

This risk applies to “medical” marijuana use also.⁷

The rise in mental health issues matches the rise in marijuana use

Dr. Stuart Reece has compared the data from 2008 to 2017 from the National Survey on Drug Use and Health (NSDUH). NSDUH measures the use of illegal drugs, prescription drugs, alcohol, and tobacco mental disorders, treatment, and co-occurring substance use and mental disorders. The data provides estimates of substance use and mental illness at the national, state, and sub-state levels. NSDUH data also help to identify the extent of substance use and mental illness among different sub-groups, estimate trends over time, and determine the need for treatment services.

Dr. Reece notes that:

The rise in cannabis monthly use was associated with a rise in cannabis initiation, cocaine initiation and heroin use disorder – consistent with the widely recognized gateway effect of cannabis.

The 33% rise in monthly cannabis use in 18-25 years group was associated with disproportionate rises in all seven classes of mental illness which are tracked:

- 39% for any mental illness
- 56% for major depressive episode
- 63% for major depressive episode with severe impairment
- 97% for serious mental illness
- 54% for suicidal thoughts
- 85% for suicidal plans
- 58% for suicidal actions⁸

Young people and marijuana use

Based on recent studies we know the following regarding young people and marijuana use:

Young people with marijuana dependence have altered brain function that may be the source of emotional disturbances and increased psychosis risk that are associated with marijuana abuse. The alterations were most pronounced in people who started using marijuana at a young age. The findings reveal potential negative long-term effects of heavy marijuana use on brain function and

⁷ Edgar Ross, MD “Discourage the Use of Medical Marijuana” Department of Anesthesia, Perioperative and Pain Medicine, Brigham and Women’s Hospital, and Harvard Medical School, N ENGL J 379:16 NEJM.ORG October 18, 2018

⁸ Dr. Reece has a great deal of information on this subject. He is listed as one of our experts. Dr A. Stuart Reece, 39 Gladstone Rd., Highgate Hill, Brisbane, Queensland, Australia, 4101. Email: asreece@bigpond.net.au or stuart.reece@bigpond.net.au

behavior.⁹

Marijuana use during adolescence can cause functional and structural changes to the developing brain, leading to damage. Marijuana use in this age group is strongly linked to: an increased presence of mental illness, including depression, anxiety and psychosis; impaired neurological development and cognitive decline; and diminished school performance and lifetime achievement.¹⁰

Mental illnesses caused by marijuana use

Psychosis and Schizophrenia

Marijuana use can trigger psychotic symptoms (from observable clinical studies of purified THC) in 40% of people with no family history of psychosis.¹¹ Regular recreational marijuana users had psychotic disorders at a greater rate than any other recreational drug. More than cocaine,

⁹ <https://www.drugabuse.gov/publications/drugfacts/marijuana> August 2017

¹⁰ *Paediatr Child Health*. 2017 May;22(2):98-102. doi: 10.1093/pch/pxx017. Epub 2017 May 3. Cannabis and Canada's children and youth. <https://www.ncbi.nlm.nih.gov/pubmed/29480902>

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¹¹ Bhattacharyya S, Crippa JA, Allen P, Martin-Santos R, Borgwardt S, Fusar-Poli P, Rubia K, Kambeitz J, O'Carroll C, Seal ML, Giampietro V, Brammer M, Zuardi AW, Atakan Z, McGuire PK. Induction of psychosis by Δ^9 -tetrahydrocannabinol reflects modulation of prefrontal and striatal function during attentional salience processing. *Arch Gen Psychiatry*. 2012; 69(1):27-36.

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Proportion of patients in south London with first-episode psychosis attributable to use of high potency cannabis: a case-control study Marta Di Forti, Arianna Marconi, Elena Carra, Sara Fraietta, http://www.thelancet.com/pb/assets/raw/Lancet/pdfs/14TLP0454_DiForti.pdf

Cannabis-induced psychosis on the rise in N.W.T. prior to legalization, says health dept. CBC News <https://www.cbc.ca/news/canada/north/cannabis-psychosis-hospitalizations-increased-1.4877853>

methamphetamine, amphetamine, LSD, PCP, or alcohol.¹²

A study discussed in a 2017 article in *Scientific American* shows that people who had consumed marijuana before age 18 developed schizophrenia approximately 10 years earlier than others. The higher the frequency of use the earlier the age of schizophrenia onset. Neither alcohol use nor genetics predicted an earlier time of inception, but marijuana did. Marijuana use during puberty is a major risk factor for schizophrenia. The more marijuana you take - and the higher the potency - the greater the risk.¹³

A recent survey of the elements illustrating marijuana as a causal factor for psychosis was published in the journal *Addiction*.¹⁴

Suicide

The risk for suicide attempts has been shown to be increased 7 times in regular marijuana users,¹⁵ and for completed suicides an increase as high as 5 times.¹⁶

¹² Niemi-Pynttari JA, Sund R, Putkonen H, Vorma H, Wahlbeck K, Pirkola SP. Substance-induced psychoses converting into schizophrenia: a register-based study of 18,478 Finnish inpatient cases. *J Clin Psychiatry*, 2013; 74(1): e94-9.

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¹⁴ Miller CL. The disconnect between the science on cannabis and public health campaigns. *Addiction*. 2017;112(10):1882-1883.

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Marijuana is the Number 1 substance now found in suicides of young people in Colorado who are 10-19 years old.¹⁷

Depression

Identical twin studies have demonstrated a clear impact that increases depression 2 times in the twin who uses marijuana.¹⁸

Bi-polar Disorder

A large longitudinal study showed a increased risk for symptoms of bipolar disorder.¹⁹

Post Traumatic Stress Disorder

PTSD patients who used marijuana users were found to make less progress in overcoming their condition and were more likely to become violent.²⁰

Consortium. Young adult sequelae of adolescent cannabis use: an integrative analysis. *Lancet Psychiatry* 2014; 1(4): 245-318.

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¹⁷ Go to the below Colorado website and click on the box that lists "methods, circumstances and toxicology" and then click on the two boxes for 10-19 years olds. The marijuana data will appear.

https://cohealthviz.dphe.state.co.us/t/HSEBPublic/views/CoVDRS_12_1_17/Story1?embed=y&showAppBanner=false&showShareOptions=true&display_count=no&showVizHome=no#4

¹⁸ Agrawal A, Nelson EC, Bucholz KK, Tillman R, Gruza RA, Statham DJ, ... Lynskey MT. Major depressive disorder, suicidal thoughts and behaviours, and cannabis involvement in discordant twins: a retrospective cohort study. *The Lancet Psychiatry*, 2017; S2215-0366(17)30280-8.

¹⁹ <http://www.newswise.com/articles/view/685947/?sc=dwtm>

²⁰ Wilkinson ST, Stefanovics E, Rosenheck RA. Marijuana use is associated with worse outcomes in symptom severity and violent behavior in patients with posttraumatic stress disorder. *J Clin Psychiatry.* 2015;76(9):1174-1180.

Anxiety

Marijuana use causes anxiety.²¹

Mental ability

Impacts on mental ability are obvious when a person is intoxicated, however, longitudinal MRI studies and other studies show the changes extend well beyond the time period of obvious impairment.²²

Loss of IQ

A study from New Zealand conducted in part by researchers at Duke University showed that

²¹ Wolitzky-Taylor K, Bobova L, Zinbarg RE, Mineka S, Craske MG., Longitudinal Investigation of the Impact of Anxiety and Mood Disorders in Adolescence on Subsequent Substance Use Disorder Onset and Vice Versa. *Addict Behav.* 2012 Aug;37(8):982-5
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²² Cannabis Use Mimics Cognitive Weakness That Can Lead to Schizophrenia, MRI Study Finds, Science Daily, November 2, 2012,
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http://www.thelancet.com/pb/assets/raw/Lancet/pdfs/14TLP0454_Di%20Forti.pdf

people who started smoking marijuana heavily in their teens and had an ongoing marijuana use disorder lost an average of 8 IQ points between ages 13 and 38. The lost mental abilities didn't fully return in those who quit marijuana as adults.²³

Addiction

The National Institute on Drug Abuse (NIDA) research shows that up to 30 percent of marijuana users may develop some degree of problem use that can include addiction.²⁴

Opiate Disorder

Recent research shows that marijuana use is associated with an increased risk of prescription and Opioid misuse disorders.²⁵

Scientific Organization Reports

The 2016 United States Surgeon General report on addiction states that marijuana is a serious threat to the physical and mental health of our children and that its use is a major threat to public safety.²⁶

²³ <https://www.drugabuse.gov/publications/drugfacts/marijuana>

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"Twenty-Five Year Longitudinal Study Affirms Link Between Marijuana Use and Other Illicit Drug Use" - Congress of the United States, 14 March 2006

"New Study Reveals Marijuana is Addictive and Users Who Quit Experience Withdrawal" - All Headline News, 6 February 2007

"Cannabis Withdrawal Among Non-Treatment-Seeking Adult Cannabis Users" - *The American Journal on Addiction*, 2006; 15:8-14

²⁴ <https://www.drugabuse.gov/publications/drugfacts/marijuana>

²⁵ <https://www.drugabuse.gov/news-events/news-releases/2017/09/marijuana-use-associated-increased-risk-prescription-opioid-misuse-use-disorders>

²⁶ Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health, November, 2016, Chapters One and two and Appendix D pp.65-66 at:

The American Psychiatric Association reports that current evidence supports, at a minimum, a strong association of marijuana use with the onset of psychiatric disorders. “Adolescents are particularly vulnerable to harm, given the effects of cannabis on neurological development.”²⁷

The National Institute on Drug Abuse (NIDA) research shows that up to 30 percent of marijuana users may develop some degree of problem use that can include addiction. Among young users, the drug may reduce thinking, memory, and learning functions. Marijuana use has also been linked to mental health problems, such as depression, anxiety, and suicidal thoughts among teens.²⁸

In 2017, the National Academy of Sciences (NAS) landmark report written by top scientists concluded after a review of over 10,000 peer-reviewed academic articles, that marijuana use is connected to, among other problems such as mental health issues (like psychosis, social anxiety, and thoughts of suicide) and learning, memory, and attention loss (possibly permanent in some cases).²⁹

The United Nation Office on Drug and Crime had this to say about marijuana use and damage to mental health

Although it is often seen as a less harmful drug, cannabis use poses several health risks. Even when used only once, cannabis may lead to panic attacks, paranoia, psychotic symptoms and other negative acute effects. The drug may also precipitate psychosis in vulnerable individuals and intensify symptoms in diagnosed schizophrenics.³⁰

Testimony before Congress

In her testimony entitled “Cannabis and Medicinal Properties” before the Crime and Terrorism Subcommittee of the U.S. Senate Committee on the Judiciary in 2016, Bertha K Madras, PhD, Professor of Psychobiology, Department of Psychiatry, Harvard Medical School noted that:

<https://addiction.surgeongeneral.gov/surgeon-generals-report.pdf>

²⁷ American Psychiatric Association, 2013 “Position Statement on Marijuana as Medicine,” paragraph 1 found at: <https://www.psychiatry.org/home/policy-finder>

²⁸ <https://www.drugabuse.gov/publications/drugfacts/marijuana>

²⁹ Health Effects of Cannabis and Cannabinoids: Current State of Evidence and Recommendations for Research. See: <http://nationalacademies.org/hmd/-/media/Files/Report%20Files/2017/Cannabis-Health-Effects/Cannabis-chapter-highlights.pdf>

³⁰ See Why should we care about cannabis? April 28, 2008, <http://www.unodc.org/unodc/en/frontpage/why-should-we-care-about-cannabis.html>.

1. There was an association of marijuana with psychosis and schizophrenia.
2. There is increased risk for cognitive decline.
3. There is increased risk of psychosocial impairment.
4. There is increased risk for psychiatric symptoms.³¹

THC Medicines

Marinol, an FDA approved artificial THC medicine has a warning about mental illness and its use. Marinol is used to treat loss of appetite (anorexia) in people with AIDS (Acquired Immune Deficiency Syndrome) who have lost weight and nausea and vomiting caused by anti-cancer medicine (chemotherapy) in people whose nausea and vomiting have not improved with usual anti-nausea medicines. Marinol can cause serious side effects, including: worsening of mental (psychiatric) symptoms in people who have mania, depression, or schizophrenia. Problems thinking clearly.³²

Conclusion

There is no doubt anymore that marijuana use causes or contributes to many forms of mental illness and neurological problems.³³

³¹ Cannabis and Medicinal Properties, Bertha K Madras, PhD, Professor of Psychobiology, Department of Psychiatry, Harvard Medical School, hearing before the Crime and Terrorism Subcommittee of the U.S. Senate Committee on the Judiciary Scheduled for July 13, 2016. This is an abbreviated version of a report written by the author and commissioned by the World Health Organization: Update of Cannabis and its Medical Use December 2015. http://www.who.int/medicines/access/controlled-substances/6_2_cannabis_update.pdf. Components of this article were incorporated into a WHO report: The Health and Social Effects of nonmedical cannabis use, April 2016 http://www.who.int/substance_abuse/publications/cannabis/en/from_400_to_650.214.15

³² <http://www.marinol.com>

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* About the author

David G. Evans, Esq., is Senior Counsel for the Cannabis Industry Victims Educating Litigators (CIVEL) who educate lawyers on how to make the marijuana industry accountable to their many victims. Mr. Evans was a plaintiff's litigator in personal injury and employment law cases. Attorneys who desire more information can contact Mr. Evans at seniorcounsel@civel.org. The CIVEL website is: www.civel.org

Before opening up his law practice in 1992, he was a Research Scientist in the Data Analysis and Epidemiology Services Unit, Division of Alcoholism and Drug Abuse, New Jersey Department

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of Health. He analyzed legal and regulatory requirements regarding: drug and alcohol abuse, research and data collection, courts, criminal justice, domestic violence, drug-free workplaces, juveniles, confidentiality, treatment, drug testing, AIDS, drug use forecasting, and discrimination.

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Americans Against Legalizing Marijuana

Dear Senator,

7/19/2019

Americans Against Legalizing Marijuana is a national organization dedicated to providing the latest information on the harms of marijuana. We are concerned about permitting the marijuana industry to have banking access for marijuana. This will be giving money laundering access to international drug cartels who are already using the cover of marijuana legalization. We should not make it easier for illegal businesses that manufacture high-potency pot candies, gummies, and sodas, to market kid-friendly products that will increase the risk for mental illness like psychosis, suicides, and addiction, and invite more international drug cartels into America's neighborhoods.

1. Increase risk for psychosis

Low potency marijuana (10% THC or lower) has a 3-fold increase for psychosis, and high potency marijuana (10% THC or higher) has a 5-fold increase for psychosis

[https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(19\)30048-3/fulltext](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(19)30048-3/fulltext)

2. Increase risk for Suicide

Teen Pot Use Raises Later Suicide Risk

Not only were those who smoked marijuana more likely to suffer depression and suicidal thoughts, they were also more than three times as likely to attempt suicide between the ages of 18 and 32.

<https://www.webmd.com/parenting/news/20190213/teen-pot-use-linked-to-later-suicide-risk#1>

Suicide is the leading cause of death ages 10 to 24 in Colorado.

<https://www.coloradohealthinstitute.org/research/suicides-colorado-reach-all-time-high>

***Marijuana is the Number 1 substance now found in suicides of young people in Colorado who are 10-19 years old.**

Go to the below Colorado website and click on the box that lists "methods, circumstances and toxicology" and then click on the two boxes for 10-19 years old's. The marijuana data will appear.

https://cohealthviz.dph.state.co.us/v/HSEBPublic/views/CoVDRS_12_1_17/Story1?embed=v&showAppBanner=false&showShareOptions=true&display_count=no&showVizHome=no#

3. Cannabis/Marijuana use continues to be high among teens and more teens are vaping marijuana.

The latest data on adolescent use comes from the [Monitoring the Future](http://www.monitoringthefuture.org/) study, which says 14 percent of eighth graders, 32 percent of 10th graders and 43 percent of 12th graders report using cannabis at some point in their lives.

<http://www.monitoringthefuture.org/>

A school-based survey shows nearly **1 in 11 U.S. students have used marijuana in electronic cigarettes**, heightening health concerns about the new popularity of vaping among teens.

<https://www.cbsnews.com/news/2-million-u-s-teens-arc-vaping-marijuana-report-finds/>

4. Legalizing marijuana invited international organized crime into America's neighborhoods.

Marijuana brought Cuban organized crime and indentured servants to El Paso county Colorado.

The following is a quote from Sheriff Bill Elder of El Paso County discussing that the Cubans *target specific grows near harvest time. "They'll break in, tie them up, forcibly take their product. Typically, they'll take everything they've grown," said Sheriff Elder.* And in some cases, those in charge will often rip their own grow house. *"They will go in and they will rob the grower so that the grower believes that they are being robbed by someone not associated and they will take their own product out of there and they say sorry you just lost a load; you owe us another year. And the grower will then be indentured to that organization to grow that product for another year."*

<https://foxsanantonio.com/news/local/cubans-growing-weed-in-america?fbclid=IwAR28V0Klrx5ymfEc6LLSQrgsHx5mkpjuRkHJsinut4Pxt8vOJ-WLiel6iCmg>

Foreign Cartels Embrace Home-Grown Marijuana in Pot Legal States

Federal officials allege that legal recreational marijuana states like California, Colorado and Washington, where enforcement of growing regulations is hit-or-miss, have been providing cover for transnational criminal organizations willing to invest big money to buy or rent property to achieve even bigger returns.

Chinese, Cuban and Mexican drug rings have purchased or rented hundreds of homes and use human trafficking to bring inexperienced growers to the United States to tend them, federal and local officials say.

<https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>

5. Big tobacco is interested in the marijuana market.

This past summer, researchers poring through more than 80 million pages of previously secret tobacco industry documents found that Big Tobacco has long had interest in pot.

<https://www.usatoday.com/story/money/business/2015/04/11/cigarettes-and-marijuana/70746772/>

Let's not create a slippery slope: Oregon and Denver are already looking at legalizing drugs other than marijuana. Will banks accept those illegal funds? Allowing the marijuana industry access to banks, will radically increase investment in the marijuana industry, accelerating its transformation into the next Big Tobacco.

Thank you for your time and for your service to our nation,

Carla D. Lowe



Senator Mike Crapo
239 Dirksen Senate Office Building
Washington DC 20510
July 19, 2019

Dear Senator Crapo,

In anticipation of the Committee on Banking, Housing, and Urban Affairs' hearing scheduled for Tuesday, July 23, 2019 (Challenges for Cannabis and Banking: Outside Perspectives), we are forwarding a copy of a recently passed policy resolution. On May 17, 2019, the National Association of State Treasurers (NAST) passed the attached resolution entitled: "Advancing Legislation allowing the States with state legalized medical and recreational cannabis the ability to bring these activities into the Safety and Scrutiny of the National Banking System."

While we do not take a position on the issue of cannabis legalization, we recognize the challenges that exist for cannabis-related businesses and financial institutions due to the conflict between federal and state law that exists in many states.

We appreciate the Committee's willingness and interest in examining this issue further and we are hopeful that a solution can be identified. We are happy to answer any questions you may have.

Sincerely,

A handwritten signature in blue ink that reads "Shaun Snyder".

Shaun Snyder
Executive Director



RESOLUTION

Advancing Legislation allowing the States with state legalized medical and recreational cannabis the ability to bring these activities into the Safety and Scrutiny of the National Banking System.

WHEREAS, the National Association of State Treasurers is not taking any position on the legalization of cannabis -- medical or recreational -- rather this resolution is focused on banking access and financial services for states that have adopted some form of legalized cannabis. States that have not approved legalized cannabis also deserve protection under the law; and

WHEREAS, as of February 2019, 33 states have legalized medical cannabis use under state law including ten states and the District of Columbia that have passed laws making the use of recreational cannabis legal for adults over 21 years of age; and

WHEREAS, all of these states and the District of Columbia have focused on implementing cannabis legalization through the use of robust regulatory systems, which are ever mindful of protecting the citizens of the states, and recognizing the public health and safety issues that must be addressed; and

WHEREAS, there remains an ongoing conflict between states' laws legalizing cannabis and current federal laws, resulting in the vast majority of financial institutions refusing to provide services to legal cannabis businesses; and

WHEREAS, the small number of financial institutions willing to provide services to legal cannabis businesses rely on the U.S. Treasury Financial Crimes Enforcement Network (FinCEN) guidance to clarify Bank Secrecy Act (BSA) expectations to provide those services; and

WHEREAS, lacking banking services, many legal cannabis businesses operate solely in cash. Cash-based systems are inefficient, expensive, and opaque, making illicit activity more difficult to track and posing a significant risk to public safety by increasing the likelihood of violent crime; and

WHEREAS, unbanked cannabis businesses are unable to write checks, make and receive electronic payments, utilize payroll providers, accept debit or credit cards, or pay taxes through a financial institution, tax collection is more difficult and burdensome for both businesses and governments, and the potential for tax fraud is substantially increased; and

WHEREAS, the inability to access banking services impacts not only legal cannabis businesses, but also employees in the cannabis industry and secondary service providers who contract or do business with cannabis businesses.

NOW, THEREFORE BE IT RESOLVED, that the National Association of State Treasurers supports the following:

1. NAST *supports* common sense federal laws and regulations to provide essential banking services to state legalized cannabis businesses, promote public safety and financial transparency, and facilitate local, state and federal tax and fee collection without compromising federal enforcement of anti-money laundering laws against criminal enterprises, recognizing that NAST takes no position as to whether cannabis should be legalized under the laws of the

United States or of any state.

2. NAST *supports* financial law enforcement authorities' consistent interpretation of the FinCEN guidance and, barring changes to federal law, the continued application of the guidance to allow some financial institutions to offer banking services to the state legalized cannabis industry.

Approved this 17th Day of May, 2019, by the
National Association of State Treasurers

A handwritten signature in dark ink, appearing to read "David Damschen", with a long, sweeping horizontal stroke extending to the right.

Hon. David Damschen
NAST President & Utah State Treasurer



TESTIMONY OF SCOTT MATAS
OF
THE CITY OF DESERT HOT SPRINGS, CALIFORNIA

BEFORE THE UNITED STATES SENATE
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

"CHALLENGES FOR CANNABIS AND BANKING: OUTSIDE PERSPECTIVES"

JULY 23, 2019

Introduction and History of Desert Hot Springs:

Chairman Crapo, Ranking Member Brown, and Members of the Committee, my name is Scott Matas. I am the Mayor of the City of Desert Hot Springs, CA, the first municipal entity in California to license cannabis-related operations. On behalf of my community, I thank you for the opportunity to discuss our support for providing fair access to banking and financial services for state-licensed cannabis cultivators, processors, and retailers throughout the country.

In 2014, the City was in a fiscal emergency and near bankruptcy. For years the City faced financial ruin as our tax base and the once reliable tourist industry that historically served as a prime economic generator of our community continued to dwindle. Crime was increasing and property values flat lined. Faced with the difficult choice of laying off more city employees and further cutting city services or default on financial obligations, the City Council voted to legalize medical marijuana cultivations facilities and dispensaries in a last attempt to develop a new industry within the City.

Initially, I was hesitant about allowing this cannabis industry into our community, but thanks to the hard work and strict oversight of the City staff we developed a comprehensive regulatory system for the new industry. Our regulations spoke to nearly every aspect of the cannabis industry, including zoning restrictions, signage, and security requirements. Our regulations are recognized throughout California and even served as a model for the state's own regulatory system. I am pleased to say, that today, the City is on an upward trajectory from just a few years ago. The revenue the City receives from the cannabis industry has transformed the economic outlook and viability of our community. We have seen significant reductions in crime, increased property values, and an increase in good-paying jobs throughout our City. However, in spite of our successes, our partners in the cannabis industry continue to face hurdles that cannot be addressed at the state or local level. This is why we are turning to Congress.

On January 1, 2018, California became the largest state to implement a legal regulatory system that allows retail, cultivation, manufacturing, and distribution of recreational, adult-use cannabis. A recent study by the Institute for Taxation and Economic Policy, entitled *Taxing Cannabis*, estimates California collected over \$200 million in excise tax revenues from cannabis sales in

2018 compared to \$168 million collected from beer and wine sales over the same period.¹ However, because the federal government considers cannabis an illegal substance, banks and other financial institutions face significant regulatory risks in providing services to compliant cannabis-related businesses. As a result of conflicting state and federal laws, compliant cannabis-related businesses must operate without access to ordinary banking services, forcing them to operate in an all-cash environment and preventing them from separating themselves from the illicit marketplace. This creates an unnecessary public safety risk for communities like Desert Hot Springs and hinders these businesses' abilities to grow and expand. As a leader and a model for rigorous local cannabis regulations, the City is committed to developing regulations that accommodate potential changes to state and federal laws that prioritize public safety of our citizens.

After nearly a decade of innovative regulations at the state and local level, now is the time for Congress to act and create an easier pathway for state and locally licensed cannabis business to access the ordinary banking services that all other businesses rely on each day. Ending the conflict between state and federal cannabis regulations and aligning the two legal systems will allow cannabis businesses to continue developing and expanding economic benefits across the country and lead to more commonsense applications of limited federal, state, and local resources.

Benefits of Cannabis Banking:

To date, forty-six states, as well as Guam, Puerto Rico, and the District of Columbia, have passed legislation authorizing some form of cannabis for regulated medical or adult-use purposes and thirty-three states have enacted laws regulating the commercial production and sale of medical or adult-use marijuana. Ten of those states, which include 80 million people, or nearly 25% of the United States' population, have passed cannabis laws for adult-use purposes.

Despite communities across the country accepting the cannabis industry, banks, credit unions, and financial institutions are mostly unable to provide traditional banking services to cannabis-related businesses. These services, which include access to ordinary checking or savings accounts, the ability to access capital through loans, and the power to accept payment through debit and credit cards, represent the most basic and routine aspect of the financial system that all other businesses take for granted.

In order to operate safely and successfully, any business must have access to traditional financial services. For the cannabis industry, which is overly reliant on cash to conduct routine business practices, such as payroll, remitting taxes, and conducting sales transactions, the lack of access to financial services creates public safety hazards. One particularly striking consequence of these cash transactions is the need for the cannabis businesses to pay for armored trucks to transport large sums of money. As an elected official responsible for the safety of a community, the required frequency of these armored cars represents an unnecessary and avoidable public safety hazard, particularly when cannabis businesses remit monthly or quarterly tax obligations at City Hall. The contents and regularity of these armored vehicles provide too tempting a target for potential bad actors to cause harm to innocent civilians and city employees. Allowing state and locally compliant cannabis businesses to access financial services would eliminate the frequency of armored vehicles because these businesses would be able to pay taxes by wire transfer or via Electronic Funds Transfer (EFT) with a debit or credit card.

In addition to being able to use EFTs for business expenses, access to banking services would grant state and locally compliant cannabis business the ability to accept EFTs via standard credit

¹ https://itep.org/wp-content/uploads/012319-TaxingCannabis ITEP_DavisHillPhillips.pdf

and debit cards as forms of payment. The use of credit and debit cards would significantly reduce the amount of cash at any one cannabis business. The use of EFTs would also ease the burden of calculating and paying sales taxes because the appropriate taxes would be instantly collected and remitted to the City at the point of sale. This prevents wasting City resources calculating tax liability for individual cannabis businesses, and ensures the City receives the correct amount of revenue that can be allocated to other beneficial programs for our community, such as road work improvements or ensuring proper staffing at recreational facilities.

Conclusion:

In conclusion, the cannabis industry in Desert Hot Springs has produced numerous positive economic impacts for the community. Allowing cannabis companies to access financial services is not only a plus for the industry, but it also provides significant benefits to local communities as well. There are many areas of conflict between federal and state laws concerning cannabis, and we cannot solve all of them overnight. However, state and local governments having taken the first step, but it is now up to Congress to allow state and locally compliant cannabis business access to banking services. By entering a regulated financial industry, cannabis business will have access to capital necessary for expansion, decrease threats to public safety by reducing the amount of cash flow through population centers, and provide greater transparency and accountability to regulators at all levels of government. Sunshine truly is the best disinfectant. This industry is a reality, and banking is a necessity requiring a federal solution.

I want to thank the Chair, Ranking Member, and the Committee for discussing this important issue. On behalf of the City of Desert Hot Springs, I encourage Congress to update federal policies that provide clarity and enable reasonable access to banking and financial services for cannabis business that are compliant with state and local laws. If I can answer any questions or if the City can be a resource for you and your colleagues going forward on this issue, please do not hesitate to reach out to me.

Sincerely,



Scott Matas
Mayor



July 22, 2019

The Honorable Mike Crapo
Chairman
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
U.S. Senate
Washington, DC 20511

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
U.S. Senate
Washington, DC 20511

Dear Chairman and Ranking Member:

On behalf of the Faith & Freedom Coalition, a grassroots public policy organization with over 2 million members and supporters committed to strengthening the family and advancing Judeo-Christian values, I write to request that you oppose any efforts to give open access to the U.S. banking system for the marijuana industry. This would include opposing both the inclusion of any pro-marijuana riders in the annual appropriations bills and stand-alone bills such as S. 1200 (H.R. 1595), SAFE Banking Act of 2019.

A vote for S. 1200 would open the U.S. banking system to large investment firms and funds, criminal activity, and exacerbate problems with tracking and preventing interstate sales of controlled substances, as well as money laundering by foreign cartels and terrorist organizations. For American families already struggling with an epidemic of addiction, allowing billions of dollars to invest in and increase use of an already addictive product before the health impacts are fully understood is just bad policy.

The states that have disregarded federal drug laws have not diminished the black market activities in their borders or prevented trafficking outside of their borders. Opening U.S. financial services to any illicit trade will only compound these problems and undermine the federal banking laws' utility as an important tool for law enforcement to combat criminal and/or terrorist networks by making it easier for them to launder illicit funds through the U.S. financial systems.

By commingling legal and illegal sources of income and allowing their flow through U.S. banks and financial institutions, this bill would undermine the integrity of the U.S. financial system.

Already, organized crime has infiltrated the Canadian financial system through participation in marijuana businesses¹.

Enshrining illicit financial activity into legal financial products and services is clearly “putting the cart before the horse.” These activities are still illegal under federal law because the debate regarding marijuana is far from settled.

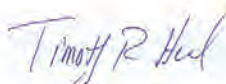
What Congress should be considering is funding scientifically rigorous research into the potential health impacts of this new high-potency marijuana now being sold in the U.S. (both harmful and efficacious), including impacts on mental health and addiction treatments.

Further, federal agencies should be issuing warnings to adults and children alike about the dangers of these addictive products, just as they do with other substances used for medicinal or recreational purposes. American consumers assume their government will warn them of the dangers of chemicals and “medicines,” yet federal agencies have been woefully quiet even on the known negative impacts of the high THC products now being sold and driving substance abuse disorders across the country.

Inviting money laundering to become mainstream through our banking system to accommodate an illicit industry’s convenience without fully understanding how the massive spread of their products will—possibly irreversibly—negatively impact our country and our citizens is irresponsible.

For these reasons, we strongly urge a “NO” vote on S. 1200 or any policy initiative which would seek to expand access to the U.S. banking system for these federally illegal products should they come before you.

Sincerely,



Timothy R. Head
Executive Director
Faith & Freedom Coalition

CC: All Members, U.S. Senate Committee on Banking, Housing, and Urban Affairs

¹ <https://www.cbc.ca/news/canada/montreal/cannabis-health-canada-enquete-investigation-1.4887997>

July 19, 2019

<p>The Honorable Mike Crapo Chairman U.S. Senate Committee on Banking, Housing, & Urban Affairs 534 Dirksen Senate Office Building Washington, D.C. 20510</p>	<p>The Honorable Sherrod Brown Ranking Member U.S. Senate Committee on Banking, Housing, & Urban Affairs 534 Dirksen Senate Office Building Washington, D.C. 20510</p>
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Dear Chairman Crapo and Ranking Member Brown,

We write as former Directors of the Office of National Drug Control Policy and former Administrators of the Drug Enforcement Administration to warn about the unintended consequences of the SAFE Banking Act to legalize the banking of federally illegal proceeds from the sale of marijuana.

Some Members of your Committee may be familiar with the Black Market Peso Exchange that has been in operation for several decades. This scheme has enabled international drug cartels to launder billions of U.S. dollars through international monetary exchanges and has ensnared many banks and mainstream U.S. companies.

The lesson that the Black Market Peso Exchange teaches us is that cartels will go to enormous lengths and use sophisticated and complex methods to move cash into banks—since laundering money is the life-blood of criminal organizations. It is therefore a virtual certainty that cartels will seek to exploit the SAFE Banking act if it provides them with an easier and more cost-effective means to launder their money.

Because cash made from the sale of marijuana looks the same regardless of what it was used to pay for, it will be extremely difficult for banks to know whether large bundles of cash presented for deposit were made from the sale of marijuana rather than from the sale of heroin, fentanyl, or methamphetamine.

In short, the SAFE Banking Act could inadvertently allow cartels to bring into banks duffel bags of cash made from the sale of those illicit drugs that are killing tens of thousands of Americans every year.

Consider the current landscape of offering banking services to cash-intensive marijuana businesses. Even if customers are offered the opportunity to pay in credit, many customers will choose to pay cash to avoid being tracked within the state seed-to-sale tracking system.

While banks know how much cash to expect from other cash-intensive businesses like dry cleaners or convenience stores, it will be very difficult to figure out when a marijuana dispensary is participating in a money laundering scheme. The scale of the marijuana industry is already such that there are huge opportunities for these dispensaries to be the destination for cartel cash. Indeed, we have already seen many cases of cartels using the cover of legalization to operate

illicit marijuana grows and black market activity. Two recent examples within the past year involved organized efforts to expel Mexican drug cartels growing marijuana in Northern California¹—including a request to use the California National Guard², and the May 2019 bust of the largest international drug trafficking organization in Colorado law enforcement history, with over 80,000 plants in over 250 locations and 4.5 tons of finished marijuana products³.

We urge the Senate Banking Committee to reject the SAFE Banking Act and other legislation that would give these cartels more cover and more access to the U.S. financial system.

Sincerely,

Mr. R. Gil Kerlikowske
Former Director
May 7, 2009 to March 6, 2014
Office of National Drug Control Policy

Mr. John P. Walters
Former Director
December 7, 2001 to January 20, 2009
Office of National Drug Control Policy

General Barry R. McCaffrey, USA (Ret.)
Former Director
February 29, 1996 to January 20, 2001
Office of National Drug Control Policy

Mr. Lee P. Brown
Former Director
July 19, 1993 to January 1996
Office of National Drug Control Policy

Mr. Robert Martinez
Former Director
March 28, 1991 to January 20, 1993
Office of National Drug Control Policy

Mr. William J. Bennett
Former Director
March 13, 1989 to December 13, 1990
Office of National Drug Control Policy

Ms. Michele M. Leonhart
Former Administrator
November 10, 2007 to May 14, 2015
Drug Enforcement Administration

Ms. Karen P. Tandy
Former Administrator
July 31, 2003 to November 9, 2007
Drug Enforcement Administration

Mr. John C. Lawn
Former Administrator
July 26, 1985 and March 23, 1990
Drug Enforcement Administration

Mr. Peter B. Bensinger
Former Administrator
February 23, 1976 to July 10, 1981
Drug Enforcement Administration

¹ <https://www.justice.gov/usao-edca/pr/us-attorney-joins-forces-federal-state-and-local-leaders-and-experts-combat-devastating>

² <https://www.gov.ca.gov/wp-content/uploads/2019/02/2.11.19-Letter.pdf>

³ <https://www.justice.gov/usao-co/pr/fifty-two-individuals-arrested-one-largest-black-market-marijuana-takedowns-colorado>



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
 COMMISSIONER NICOLE "NIKKI" FRIED
 THE CAPITOL

Statement of the Honorable Nicole "Nikki" Fried
 U.S. Senate Committee on Banking, Housing, and Urban Affairs
 Full Committee Hearing on Challenges for Cannabis and Banking: Outside Perspectives
 July 23, 2019

Chairman Crapo, Ranking Member Brown, and members of the Committee, thank you for the opportunity to address the urgent need for federal action to provide access to the financial system for the growing cannabis industry, including the emerging industrial hemp industry following legalization in the 2018 Farm Bill, as well as for marijuana-related businesses operating in compliance with state laws.

As Florida's Commissioner of Agriculture, and in my previous work as an advocate for cannabis and medical marijuana, I come from an unconventional background for the position – one which has led me to seek innovation for our state's economy. Agriculture is Florida's second largest industry with \$132 billion in economic impact, including \$4 billion in commodities exported to 164 nations. Our 47,000 farms support two million workers – good jobs that help Floridians provide for their families as well as feeding our neighbors across the state, nation, and world.

However, Florida's agriculture industry has suffered in recent years in the wake of devastating hurricanes and the challenge of navigating unfair trade practices, leading our farmers to seek alternative crops — something my Department has been working hard to deliver.

On July 1st, Florida's Senate Bill 1020 became law, giving our Department the authority to establish a state hemp program – a program we intend to become a model for the nation and unlock billions in economic potential for our state.

Unfortunately, existing conflicts between state and federal cannabis laws have led to a higher level of risk and hurdles for entrepreneurs. This includes a lack of access to an efficient and safe banking system, traditional loans, and capital markets – forcing businesses to resort to all-cash operations, creating an additional public safety concern on top of stifling growth.

Without Congressional action, continued confusion and misinformation regarding cannabis – including industrial hemp – could discourage financial institutions from partnering with farmers and businesses on this promising new commodity.

This is an issue that threatens our state and national economy, which is why I have strongly supported the *Secure and Fair Enforcement (SAFE) Banking Act (S.1200)* before you today.



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U.S. Senate Committee on Banking, Housing, and Urban Affairs
July 23, 2019
Page Two

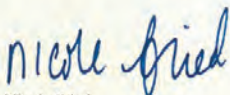
This issue is also personal to me. Last summer, several major financial institutions shut down my campaign bank accounts, due to my outspoken support for patient access to medical marijuana. Unfortunately, this was not an isolated incident – many cannabis-related businesses subjected to similar actions, including the Medical Marijuana Business Association that had its accounts closed earlier this year.

With 46 states having legalized cannabis for either medical or recreational use, and with the reclassification of hemp as an agricultural commodity in the 2018 Farm Bill, we are at a pivotal moment in our nation's economic history – one in which the federal government can either facilitate the extraordinary growth of the legal cannabis industry, or impede it.

After seven decades of lost opportunities, now is the time for Congress and our federal government to empower small businesses and embrace the new, green economic revolution of cannabis and hemp.

America's emerging cannabis industry has the potential to lift up every community from coast to coast. Passing the *SAFE Banking Act* is an important first step in providing legitimate cannabis-related and state-licensed farmers, business, and consumers with safe access to the financial system needed for this potential to become reality.

I encourage you to support the common-sense, bipartisan legislation before you today that will not only help support Florida's farmers, but puts American jobs, families, and livelihoods first.



Nicole Fried
Florida Commissioner of Agriculture



**BANKING REFORM, CANNABIS PROHIBITION, AND THE FEDERAL
ROLE IN THE NEW GLOBAL CANNABIS ECONOMY**

**Statement for the Record before the Senate Committee
on Banking, Housing, and Urban Affairs**

**For the Hearing on “Challenges for Cannabis and Banking:
Outside Perspectives”**

By Randal John Meyer,
Executive Director of the Global Alliance for Cannabis Commerce

Global Alliance for Cannabis Commerce | 3505 Cadillac Ave Ste. N3, Costa Mesa, CA 92626

GACC is a 501(c)(6) not-for-profit trade organization

GlobalCannabisCommerce.org

Chairman Crapo, members of the Committee on Banking, Housing, and Urban Affairs, thank you for hosting this hearing on the pressing issues created by federal banking laws in the legal cannabis industry and the need for reform. The Global Alliance for Cannabis Commerce offers its “outside perspective” on these matters today. We congratulate and encourage both political parties, and Senators Merkley and Gardner, for their good-faith efforts in reaching bipartisan consensus on providing relief to cannabis businesses and their banking concerns.

The Global Alliance for Cannabis Commerce (GACC) is a California-based 501(c)(6) trade organization representing over a billion dollars of legal global cannabis businesses. GACC advocates in front of government policymakers and legislators to support legalizing and regulating the cultivation, manufacture, distribution, and use of medical and adult-use cannabis products globally. GACC further works to ensure that medical and adult users of cannabis are not stigmatized for their ordinary needs and activities.

For the last two decades, states have been legalizing and licensing cannabis for medical or adult use. Of the numerous tensions this trend has created with federal law, banking is one of the most prominent. Cannabis banking issues have hampered industry growth and harmed lawful cannabis workers while extenuating public safety risks by compelling a cash-laden industry.

Because of the current state of federal banking laws, legal industry participants have difficulty accessing core banking services, such as operating accounts. Moreover, they have difficulty processing payments and accessing credit, which are essential to running a business. Such businesses’ lack of access to the banking system also undermines their ability to ensure that their workers receive the full benefits of their labor. Because they cannot access the banking system, cannabis businesses have extreme logistical difficulty providing benefits to their employees, providing a payroll system, and applying withholdings. Moreover, such employees themselves are directly burdened by federal banking law because they have difficulty finding health or other forms of insurance due to their form of income. Oftentimes, GACC member-business employees are forced to live cash lifestyles without access to proper retirement, healthcare savings, or life or disability insurance to take care of their loved ones in the worst of all scenarios. Accordingly, unlike other workers, GACC member-business employees are limited in their ability to access the financial services they need or prepare for retirement or the kind of tragedies that can drive working American families into poverty.

Federal banking law also exacerbates public safety risks. Because legal cannabis businesses must operate with a surplus of cash, their leadership and employees have become the targets of violent criminals. The risk of such employees being robbed,

kidnapped, extorted and even tortured is tragically real.¹ The federal government must reckon with the danger employees and owners of state-licensed businesses face. In addition to personal safety risks, the current state of cannabis banking undermines the ability of the Financial Crimes Enforcement Network (“FinCEN”) to crack down on money laundering. Banks and money services businesses are obligated under the Bank Secrecy Act to monitor and report suspicious activities (“SARs”), including money laundering. Keeping capital from lawful cannabis businesses outside of the banking system makes it impossible for banks to report suspicious activities, and for FinCEN to respond. FinCEN has provided guidance on issuing SARs for “marijuana-related businesses”,² but the regulatory uncertainty created by federal banking law has made the banking system, overall, unwilling to work with lawful cannabis companies. Legislative reform, therefore, is necessary.

The need for banking reform is clear. Thirty-three states, territories, tribal nations, and the District of Columbia allow and regulate medical-use cannabis; eleven more states, tribal nations, territories, and the District of Columbia do so with adult use—numbers only expected to increase heading into 2020 based on polling data and political trends. As these numbers grow, the dangers and ill effects of the current federal banking regime will only become worse.

The first step in reform should be the swift passage of the Secure And Fair Enforcement Banking Act of 2019 (SAFE Banking Act), S.1200. The SAFE Banking Act presents a broadly-supported, bipartisan approach that would be of profound benefit to the U.S. economy, the 200,000 cannabis business employees throughout the United States, and minority-owned businesses. Importantly, the SAFE Banking Act provides these benefits without restricting the states’ ability to regulate cannabis.

First, the SAFE Banking Act makes good economic sense because, as the Congressional Budget Office (CBO) has indicated, the bill will save the federal government \$4 million a year in enforcement costs while generating billions in new deposits for credit and investment into the U.S. economy.³ According to its March scoring of the bill, “CBO expects that enacting [the SAFE Banking Act] would increase insured deposits by bolstering legal certainty for institutions that provide affected services and estimates that beginning in 2022 insured deposits at banks

¹ *E.g.*, *4 charged in robbery, castration of California pot clinic owner*, FOX NEWS (Nov. 8, 2013), <https://www.foxnews.com/us/4-charged-in-robbery-castration-of-california-pot-clinic-owner>.

² FINANCIAL CRIMES ENFORCEMENT NETWORK, BSA EXPECTATIONS REGARDING MARIJUANA-RELATED BUSINESSES (Feb. 14, 2014). This guidance remains in place. FINANCIAL CRIMES ENFORCEMENT NETWORK, MARIJUANA BANKING UPDATE (Jan. 2018).

³ CONGRESSIONAL BUDGET OFFICE, COST ESTIMATE: H.R. 1505, SAFE BANKING ACT OF 2019, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON MARCH 28, 2019, at 1–4 (2019).

would increase by about \$1.2 billion and at credit unions by about \$200 million. Those amounts would rise to \$2.1 billion and \$350 million, respectively, by 2029.”⁴

Second, the SAFE Banking Act makes practical sense for the over 200,000 Americans whose livelihood depends on the legal cannabis industry. As Sabas Carillo, CEO of Adnant Consulting has noted, “[m]ore than anything else, banking is about being able to cover payroll and being able to provide benefits to your employees.”⁵ The SAFE Banking Act will enable lawful cannabis businesses to access the banking services they need to ensure their employees receive their benefits fully and efficiently.

Third and finally, passage of the SAFE Banking Act would have a positive effect on minority-owned businesses. There is a substantial amount of data evincing that minorities and minority-owned businesses have the most difficulty accessing capital for investment⁶—there is no industry where this is truer than cannabis. Shanita Penny, President of the Minority Cannabis Business Association, recently noted in her testimony before the United States House Committee on Small Business, that “[l]ack of access to capital contributes to the widening ownership equity gap” in the emerging cannabis industry.⁷ Passage of the SAFE Banking Act would be a boon to minority-owned cannabis businesses by enabling them to raise capital from more sources.

The SAFE Banking Act is important step forward, but it is not enough on its own. The federal government’s prohibitionist stance on cannabis is no longer a tenable position. The question now is not *if* reform will happen federally, but *how*. With respect to the *how*, the Global Alliance for Cannabis Commerce has publicly released comprehensive model U.S. federal cannabis legislation regulating cannabis at the federal level, including components to ensure that communities disproportionately harmed by prohibition are not left out from the economic opportunities presented by its legalization.⁸ GACC’s model legislation draws from some of the best practices that have strong bipartisan support from proposals currently underway.

⁴ *Id.*

⁵ Melissa Schiller, *Cannabis Advocates See Banking Reform on Horizon as SAFE Banking Act Gains Momentum in Congress*, CANNABIS BUSINESS TIMES (Apr. 10, 2019), <https://www.cannabisbusinesstimes.com/article/safe-banking-act-gains-momentum-congress/>.

⁶ See generally, e.g., FEDERAL RESERVE BANK OF CLEVELAND & FEDERAL RESERVE BANK OF ATLANTA, SMALL BUSINESS CREDIT SURVEY: REPORT ON MINORITY-OWNED FIRMS (2017); see *id.* at iii-v.

⁷ *Unlocked Potential? Small Businesses in the Cannabis Industry: Hearing Before the Comm. on Small Business*, 116th Cong. 2 (2019) (statement of Shanita Penny, President, Minority Cannabis Business Association).

⁸ See generally MODEL U.S. FEDERAL CANNABIS REFORM ACT (GACC 2019), reprinted in Appendix A; Appendix B (Section by Section of GACC Model Legislation).

True reform for the existing businesses in 33 states means a framework that does not unnecessarily wreak havoc on existing relationships and business practices, that adopts bipartisan best practices towards fixing the harms of cannabis prohibition, and that employs the constitutional powers of the federal government to ensure a functional, free, and fair market in cannabis. Improvident or ill-considered federal policy in legalizing cannabis can have dire, if unintended, consequences for cannabis businesses.

The *sine qua non* of what industry and consumers need from the federal government for cannabis reform is clear: legalize and regulate interstate and international trade in cannabis products under its Article I, Section 8 Commerce Clause powers. In doing so, Congress could respect both the state right to choose to keep cannabis prohibited within its borders, and the state right to interstate trade of the thirty-three other states that legalized cannabis.

A quick review of federal cannabis law will explain why the current regulatory is problematic and why legalization is necessary. Federal cannabis prohibition began in 1937 with the passage of the Marihuana Tax Act of 1937 (the 1937 Act),⁹ a federal law that was unanimously overturned by the Supreme Court in 1969 in *Leary v. United States* for requiring self-crimination under the Fifth Amendment.¹⁰ Congress passed the 1937 Act over the objections of the American Medical Association and effectively de-listed cannabis from the *United States Pharmacopeia*, in which it had been listed since 1870.¹¹ Cannabis had, before 1937, been regulated as a drug in interstate commerce under the 1906 Pure Food and Drug Act and Harrison Narcotics Act of 1914.¹² As a consequence of the 1937 law, cannabis was excluded from the 1938 Food, Drug, and Cosmetic Act's regulatory scheme. Cannabis prohibition took hold in 1937 on the heels of a propaganda campaign engineered by the Federal Bureau of Narcotics under Harry J. Anslinger and William Randolph Hearst's media empire, and aggrandized by media outlets jumping in on the "marihuana" frenzy.¹³

⁹ Marihuana Tax Act of 1937, Pub. L. 75-238, 50 Stat. 551 (Aug. 2, 1937).

¹⁰ *Leary v. United States*, 395 U.S. 6, 17 (1969). The law was overturned because hemp farmers had to bring their crop for inspection to D.C. to receive a license, only to be arrested upon presenting their crop for transporting "marihuana" in interstate commerce.

¹¹ See, e.g., PHARMACOPEIA OF THE UNITED STATES (5th Decennial Rev., Philadelphia, J.B. Lippincott & Co. 1877); PHARMACOPEIA OF THE UNITED STATES (11th Decennial Rev., Philadelphia, J.B. Lippincott & Co. 1936).

¹² See Harrison Narcotics Act, Pub. L. No. 223, 38 Stat. 785 (Dec. 17, 1914). Pub. L. 59-384, 34 Stat. 768 (June 30, 1906).

¹³ E.g., RICHARD J. BONNIE & CHARLES H. WHITEHEAD, THE MARIHUANA CONVICTION: A HISTORY OF MARIJUANA PROHIBITION IN THE UNITED STATES 100-02 (University Press of Virginia 1974).

In response to the unanimous 1969 *Leary* decision striking down federal cannabis prohibition, in 1970 Congress passed and President Richard M. Nixon signed into law the Controlled Substances Act.¹⁴ The Controlled Substances Act listed, and to this day lists cannabis as “marihuana,” a Schedule I Controlled Substance, the most restrictive designation possible, and creates a nationwide cannabis prohibition.¹⁵

Right now, there are more than thirty-four balkanized “state-legal” markets in the United States for cannabis. As Ilya Shapiro, Director of the Robert A. Levy Center for Constitutional Studies at the Cato Institute has explained, “[b]y default, to succeed, any business has to be vertically integrated from seed to sale in each state. This limits competition and artificially inflates prices. Consumers, particularly elderly patients, many of whom rely on cannabis products to mitigate health concerns, will be at the mercy of businesses that don’t have to respond to market forces.”¹⁶

This balkanization has also led to incredible supply-demand imbalances within the United States itself, threatening state-based cannabis markets, and remediable only by the federal government exercising its commerce powers. For example, on the supply side, according to a 2019 Cannabis crop projection, California cultivators “can produce up to 9 million pounds of crop every year, but the permitted wholesale market can realistically support 1.8 million to 2.2 million pounds, which potentially crash the market” in California.¹⁷ Oregon has six-years’ worth of stock,¹⁸ and the state government has approved legislation for interstate commerce that only becomes effective upon federal reform.¹⁹

Conversely, on the demand side, Canadian dispensaries continuously see shortages that could easily be filled by reducing excess West Coast stock.²⁰ Nevada

¹⁴ See Controlled Substances Act, Pub. L. 91-513, 84 Stat. 1236 (Oct. 27, 1970) (codified at 21 U.S.C. ch. 13).

¹⁵ 21 U.S.C. §§ 802(16), 812; see also generally *Gonzales v. Raich*, 545 U.S. 1 (2005).

¹⁶ Ilya Shapiro, *The Case for Allowing Interstate Trade Among Marijuana-Legal States*, THE FEDERALIST (Mar. 13, 2019), <https://thefederalist.com/2019/03/13/case-allowing-interstate-trade-among-marijuana-legal-states/>.

¹⁷ Andrew Sheeler, *California is growing so much marijuana it could crash the market*, SACRAMENTO BEE (Mar. 19, 2019 11:04am), <https://www.sacbee.com/news/politics-government/capitol-alert/article228120439.html>.

¹⁸ Kristian Foden-Vencil, *Oregon Is Producing Twice As Much Cannabis As People Are Using*, OPB (Jan. 31, 2019, 12:00pm), <https://www.opb.org/news/article/oregon-cannabis-surplus-2019/>.

¹⁹ S.B. 582, 80th Leg. Assemb., Reg. Sess. (Or. 2019); Suhauna Hussain, *Oregon has too much cannabis. Two laws may help the state manage its surplus*, L.A. TIMES (June 24, 2019, 3:00am), <https://www.latimes.com/nation/la-na-oregon-legislature-tackles-supply-marijuana-20190624-story.html>.

²⁰ E.g., Paul Barach, *What’s Up With Canada’s Nationwide Cannabis Shortages?* POTGUIDE.COM (Dec. 26, 2018), <https://potguide.com/pot-guide-marijuana-news/article/whats-up-with-canadas-nationwide-cannabis-shortages/>.

has seen shortages as well.²¹ Louisiana pharmacists—complaining of watching “patients suffer...desperate for [cannabis] medication”—demanded their state allow medical cannabis to be available.²² Illinois, the latest state to legalize, also is projected to face shortages for consumers.²³

Legal operators in states do not have the benefits of federal regulation over agriculture, pesticide control, food and drug adulteration, and finance—areas where federal regulatory clarity has been a chief component of consumer confidence and commercial success. Without federal legalization and regulation, it is unlikely that legal businesses will be able to fully access the financial sector. As Dan Stipano recently told *American Banker*, “Anything short of legalization on the federal level will probably not be enough. ... Financial institutions are caught in the middle.”²⁴ It is even less likely that U.S. businesses will be in a position to compete with the emerging international cannabis markets in Canada, Mexico, Europe, Israel, Africa, the Caribbean, and South America.

Mr. Shapiro and myself reiterated these concerns and the need for the federal government to “Settle the Looming Cannabis-Regulation Fight” in *National Review Online*. “[W]hen Congress gets around to modernizing federal cannabis law in light of the wave of state-level reforms we’ve seen in the last decade, it needs to focus on interstate commerce. *Tennessee Wine [and Spirits Retailers Association v. Thomas]*, No. 18-96 (U.S. 2019) showed that even state laws regulating alcohol — with its commodity-specific constitutional amendment — can’t favor in-state interests. Congress should make sure that, for residents of those states that legalize cannabis, too, trade is free, fair, and regular.”²⁵

²¹ E.g., Melina Robinson, *Nevada sold out of legal marijuana so quickly, the government used a ‘statement of emergency’ to bring in more weed*, BUSINESS INSIDER (Jul. 13, 2017, 9:21pm), <https://www.businessinsider.com/nevada-marijuana-shortage-statement-of-emergency-2017-7>.

²² Melinda Deslatte, *Louisiana medical marijuana backers demand product by May 15*, AP NEWS (Mar. 25, 2019), <https://apnews.com/d3de7002288148deb521be10e0f3ee1>.

²³ Kris Krane, *Illinois Legalization Is Historic, But Good Luck Finding Cannabis To Buy*, FORBES (Jun. 25, 2019, 12:03pm), <https://www.forbes.com/sites/kriskrane/2019/06/25/illinois-legalization-is-historic-but-good-luck-finding-cannabis-to-buy/#16ce50c9e253>.

²⁴ Neil Haggerty, *Legalizing pot may be only way to lift cloud over pot banking*, AMERICAN BANKER (June 11, 2019, 9:00pm), <https://www.americanbanker.com/news/legalizing-pot-may-be-only-way-to-lift-cloud-over-pot-banking>.

²⁵ Ilya Shapiro & Randal John Meyer, *Congress Needs to Settle the Looming Cannabis-Regulation Fight*, NATIONAL REVIEW ONLINE (July 10, 2019 1:00pm), <https://www.nationalreview.com/2019/07/congress-must-settle-the-looming-cannabis-regulation-fight/>.

Moreover, as I recently pointed out in the *San Francisco Chronicle*, the federal government is setting these state-legal cannabis businesses up for failure by ensuring that they cannot compete with black market operators. It is an “inescapable consequence of supply and demand.”²⁶

“[B]usinesses cannot reduce prices by scaling up the production of cannabis and reaching a larger volume of the consuming population. This gap in federal law forces legal businesses to compete with black-market operators, which have the unfair advantages of both lower overhead costs per unit and a significantly larger market through their disregard of federal interstate commerce laws. Illegal producers’ costs and prices are largely fixed by their illicit nature; they cannot build large, sustainable farms to reduce per-unit costs because of the inherently unstable nature of their business. Legal businesses in the United States, aided by the protections of the commerce clause, can easily compete with and replace the black market if given the chance. Federal law can easily be changed to reach this goal.”²⁷

Indeed, cannabis business owners who take the steps to become legal operators face an economic environment where the black market has a competitive advantage based on outdated federal laws forcing legal operators to compete only within their own state, as opposed to black market operators which reach the full U.S. market by ignoring federal laws.

Congress is no longer debating *if* federal cannabis prohibition will end—it is—but *how* to end it. Accordingly, Congress should take its cues on ending cannabis prohibition from how the federal government ended alcohol prohibition by the Federal Alcohol Administration Act and the Twenty-First Amendment. Namely, by using its Commerce Clause powers to build a competitive and vibrant interstate and international trade in American goods rather than forcing legal businesses to compete with a black market that disregards all federal laws, banking or otherwise. Such federal action does not, however, preclude the states from enacting their own regulatory regime. To the contrary, it respects states’ authority to do so, including the states that have already and will legalize cannabis.

The SAFE Banking Act is a good first step toward reform, and our organization encourages this Committee to ensure its swift passage.

²⁶ Randal John Meyer, *Feds must join California in getting #weedwise on black market*, SAN FRAN. CHRON. (July 2, 2019), <https://www.sfchronicle.com/opinion/openforum/article/Feds-must-join-California-in-getting-weedwise-on-14065415.php>, reprinted in Appendix C.

²⁷ *Id.*

Global Alliance for Cannabis Commerce
Contact: Randal John Meyer
ExecutiveDirector@GlobalCannabisCommerce.org

116TH CONGRESS
1ST SESSION

H.R. _____

To effectively and intelligently regulate cannabis under federal law, and for other
purposes.

IN THE HOUSE OF REPRESENTATIVES

June __, 2019

Mr. or Ms. _____ introduced the following bill, which was referred to
the Committee on the Judiciary

A BILL

To effectively and intelligently regulate cannabis under federal law, and for other
purposes.

*Be it enacted by the Senate and the House of Representatives of the United States
of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “[GACC Model U.S. Federal Cannabis Reform Act]”.

SEC 2. ORGANIZATION OF ACT; TABLE OF CONTENTS.

(a) TABLE OF CONTENTS.— The table of contents for this Act is as follows:

Global Alliance for Cannabis Commerce

Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

Sec. 1. Short Title.

Sec. 2. Organization of Act; table of contents

TITLE I—[GACC MODEL U.S. FEDERAL CANNABIS REFORM ACT]

Sec. 101. Normalization of cannabis

Sec. 102. Highway safety research

Sec. 103. Public health research

Sec. 104. Protect kids

Sec. 105. National minimum cannabis use age of 21

Sec. 106. Medical and adult-use cannabis regulation

Sec. 107. Cannabis agriculture

Sec. 108. Protecting and respecting state laws

Sec. 109. Federal cannabis available for quality testing calibration

Sec. 110. Law Enforcement Cannabis Training and Technology Grant Program

Sec. 111. Cannabis foreign import and export regulation

Sec. 112. Establishment of excise tax relating to cannabis products

Sec. 113. Cannabis safety

Sec. 114. Repatriation of cannabis business funds and review of convictions for federal cannabis offenses

Sec. 115. Restoring American communities harmed by the War on Drugs.

Sec. 116. Comptroller General review of laws and regulations

Sec. 117. United States international cannabis commerce policy

Sec. 118. Uniformity of federal references to cannabis

TITLE II—FINANCIAL INSTITUTION CUSTOMER PROTECTION ACT

Sec. 2. Short Title.

Sec. 201. Requirements for deposit account termination requests and orders

**TITLE I – [GACC MODEL U.S. FEDERAL CANNABIS
REFORM ACT]**

SEC. 101. NORMALIZATION OF CANNABIS.

(a) CANNABIS REMOVED FROM SCHEDULE OF CONTROLLED SUBSTANCES.—

Subsection (c) of schedule I of section 202(c) of the Controlled Substances Act (21

U.S.C. 812) is amended—

Global Alliance for Cannabis Commerce

Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(1) by striking “marihuana”; and

(2) by striking “Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp (as defined under section 1639o of title 7)”.

(b) REMOVAL OF PROHIBITION ON IMPORT AND EXPORT.—Section 1010(b) of the Controlled Substances Import and Export Act ([21 U.S.C. 960](#)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (F), by inserting “or” after the semicolon;

(B) by striking subparagraph (G); and

(C) by redesignating subparagraph (H) as subparagraph (G);

(2) in paragraph (2)—

(A) in subparagraph (F), by inserting “or” after the semicolon;

(B) by striking subparagraph (G); and

(C) by redesignating subparagraph (H) as subparagraph (G);

(3) in paragraph (3), by striking “paragraphs (1), (2), and (4)” and inserting “paragraphs (1) and (2)”;

(4) by striking paragraph (4); and

(5) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(c) CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES ACT.—The Controlled Substances Act ([21 U.S.C. 801 et seq.](#)) is amended—

(1) in section 102(44) ([21 U.S.C. 802\(44\)](#)), by striking “marihuana,”;

(2) in section 401(b) ([21 U.S.C. 841\(b\)](#))—

(A) in paragraph (1)—

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(i) in subparagraph (A)—

(I) in clause (vi), by inserting “or” after the semicolon;

(II) by striking (vii); and

(III) by redesignating clause (viii) as clause (vii);

(ii) in subparagraph (B)—

(I) by striking clause (vii); and

(II) by redesignating clause (viii) as clause (vii);

(iii) in subparagraph (C), in the first sentence, by striking

“subparagraphs (A), (B), and (D)” and inserting “subparagraphs

(A) and (B)”;

(iv) by striking subparagraph (D);

(v) by redesignating subparagraph (E) as subparagraph (D);

and

(vi) in subparagraph (D)(i), as so redesignated, by striking

“subparagraphs (C) and (D)” and inserting “subparagraph (C)”;

(B) by striking paragraph (4); and

(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (4),

(5), and (6), respectively;

(3) in section 402(c)(2)(B) ([21 U.S.C. 842\(c\)\(2\)\(B\)](#)), by striking “,

marihuana.”;

(4) in section 403(d)(1) ([21 U.S.C. 843\(d\)\(1\)](#)), by striking “, marihuana.”;

(5) in section 418(a) ([21 U.S.C. 859\(a\)](#)), by striking the last sentence;

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(6) in section 419(a) ([21 U.S.C. 860\(a\)](#)), by striking the last sentence;

(7) in section 422(d) ([21 U.S.C. 863\(d\)](#))—

(A) in the matter preceding paragraph (1), by striking

“marijuana,”; and

(B) in paragraph (5), by striking “, such as a marihuana cigarette,”;

and

(8) in section 516(d) ([21 U.S.C. 886\(d\)](#)), by striking “section 401(b)(6)”

each place the term appears and inserting “section 401(b)(5)”.

(d) OTHER CONFORMING AMENDMENTS.—

(1) NATIONAL FOREST SYSTEM DRUG CONTROL ACT OF 1986.—The National Forest System Drug Control Act of 1986 ([16 U.S.C. 559b](#) et seq.) is amended—

(A) in section 15002(a) ([16 U.S.C. 559b\(a\)](#)) by striking “marijuana and other”;

(B) in section 15003(2) ([16 U.S.C. 559c\(2\)](#)) by striking “marijuana and other”; and

(C) in section 15004(2) ([16 U.S.C. 559d\(2\)](#)) by striking “marijuana and other”.

(2) INTERCEPTION OF COMMUNICATIONS.—Section 2516 of title 18, United States Code, is amended—

(A) in subsection (1)(e), by striking “marihuana,”; and

(B) in subsection (2) by striking “marihuana,”.

SEC. 102. HIGHWAY SAFETY RESEARCH.

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(a) **STUDY; DEVELOPMENT.**—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the “Administrator”) shall—

- (1) carry out additional study of the impact of driving under the influence of tetrahydrocannabinol on highway safety; and
- (2) develop enhanced strategies and procedures to reliably determine the impairment of a driver under the influence of tetrahydrocannabinol.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Administrator to carry out this section \$ [Lorem Ipsum] for each of fiscal years 2019 through 2023.

SEC. 103. PUBLIC HEALTH RESEARCH.

(a) **IN GENERAL.**—The Secretary of Health and Human Services, in consultation with the Director of the National Institutes of Health and the Commissioner of Food and Drugs, shall conduct research on the impacts of cannabis, including—

- (1) effects of tetrahydrocannabinol on the human brain;
- (2) efficacy of medicinal cannabis as a treatment for specific diseases and conditions; and
- (3) identification of additional medical benefits and uses of cannabis.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Health and Human Services, \$ [Lorem Ipsum] for each of fiscal years 2019 through 2023, for purposes of carrying out the activities described in subsection (a).

SEC. 104. PROTECT KIDS.

(a) Not later than [Lorem Ipsum] days after the date of enactment of this Act, the Secretary of the Treasury shall promulgate regulations that—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(1) require restrictions on the advertising and promotion of products related to cannabis, if the Secretary determines that such regulation would be appropriate for the protection of the public health, taking into account—

(A) the risks and benefits to the population of individuals age 21 and under, including users and nonusers of cannabis products;

(B) the increased or decreased likelihood that existing users of cannabis products who are age 18 and under will stop using such products; and

(C) the increased or decreased likelihood that individuals age 21 and under who do not use cannabis products will start using such products; and

(2) impose restrictions on the advertising and promotion of products related to cannabis consistent with and to the full extent permitted by the First Amendment to the Constitution of the United States.

SEC. 105. NATIONAL MINIMUM CANNABIS USE AGE OF 21.

(a) **ESTABLISHMENT OF FEDERAL MINIMUM CANNABIS AGE.**—Chapter 1 of title 23 of the United States Code, is amended by adding at the end the following—

“SEC. 171 (a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—

(1) **IN GENERAL.**—

(A) The Secretary of Transportation shall withhold 8 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(4) [1] of Title 23 of the United States Code on the first day of each fiscal year after the second fiscal year beginning after September 30, 2019, in which the purchase or public

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

possession in such State of cannabis by a person who is less than twenty-one years of age is lawful.

(B) EFFECT OF WITHHOLDING OF FUNDS. No funds withheld under this section from apportionment to any State after September 30, 2019, shall be available for apportionment to that State.

(C) CANNABIS DEFINED. As used in this section, the term "cannabis" means the same as "marihuana" as defined in 21 U.S.C. § 802(16)."

(D) MEDICAL EXCEPTION. The Secretary shall not apply any withholding under this section to States which lawfully permit the use of medical cannabis by persons under the age of 21 on the recommendation or prescription of a qualified medical professional consistent with state law."

SEC. 106. MEDICAL AND ADULT-USE CANNABIS REGULATION.

(a) MEDICAL CANNABIS. The Food and Drug Administration shall have jurisdiction over the regulation of medical cannabis products and cannabis-infused foods only pursuant the Cannabis Safety Act, contained in Section 14 of this Act. It shall not have jurisdiction over the regulation over non-food adult-use cannabis products that do not make medical claims on their labeling or promotional materials, nor shall the Food and Drug Administration's jurisdiction under § 201(p) be construed to extend over such adult-use cannabis products. Nor shall the Food and Drug Administration construe cannabis as a "tobacco product."

(b) ADULT-USE CANNABIS. The Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury and the Bureau of Alcohol, Tobacco, and Firearms shall

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

have primary jurisdiction to promulgate and enforce federal regulations regarding the interstate and international trade of adult-use cannabis, or cannabis products that do not make medical claims on their labeling or promotional materials.

(1) The Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury and the Bureau of Alcohol, Tobacco, and Firearms shall, within 6 months of the passage of this Act, propose regulations in accordance with 5 U.S.C. § 553 governing interstate trade in adult-use cannabis or cannabis products that do not make medical claims on their labeling.

(c) **SAFE HARBOR.** No person shall be deemed to be in violation of this Act with respect to the interstate commerce of adult use cannabis until after the effective date of regulations promulgated by the Bureau of Alcohol, Tobacco, and Firearms issues in accordance with this section. Nothing in this section shall be construed to impact in any respect obligations of any person to comply with otherwise applicable cannabis laws of the State, Territory, or Possession of the United States in which they are doing business.

(d) **PRIVATE RIGHT OF ACTION.** An adversely-affected person shall have private right of action under the Administrative Procedures Act and the Mandamus Act to compel any officer, employee or agency of the United States to promulgate regulations required under this Act that are not promulgated within the time frames set forth herein. The exclusive venue for bringing any such action shall be the District Court for the District of Columbia.

(e) **COMITY FOR STATE LICENSURE.** Any person licensed by a state cannabis regulatory authority, in compliance with the guidelines on interstate commerce promulgated by the Alcohol and Tobacco Tax and Trade Bureau of the Department of the

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

Treasury and the Bureau of Alcohol, Tobacco, and Firearms under the authority granted in this Section with respect to adult-use cannabis, and in compliance with that State, Territory, or Possession's laws, shall be permitted to engage in interstate commerce, but not foreign commerce, without the need for a federal permit or license. Nothing in this Act, or the lawful exercise of rights or privileges granted herein, shall be construed to infringe upon or prejudice the ability of a state-licensed cannabis business to apply for a permit to engage in foreign cannabis commerce in addition to interstate commerce.

(f) TRANSFERRING AGENCY FUNCTIONS WITH REGARD TO CANNABIS.

(1) TRANSFER OF JURISDICTION FROM DRUG ENFORCEMENT ADMINISTRATION TO BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—The functions of the Attorney General, acting through the Administrator of the Drug Enforcement Administration relating to Cannabis enforcement, shall hereafter be administered by the Attorney General, acting through the Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(2) REDESIGNATION OF BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES AS BUREAU OF ALCOHOL, TOBACCO, CANNABIS, FIREARMS AND EXPLOSIVES.—

(A) Redesignation.—The Bureau of Alcohol, Tobacco, Firearms and Explosives is hereby renamed the “Bureau of Alcohol, Tobacco, Cannabis, Firearms and Explosives”,

(B) References.—Any reference to the Bureau of Alcohol, Tobacco, Firearms and Explosives in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

reference to the Bureau of Alcohol, Tobacco, Cannabis, Firearms and Explosives.

(3) REDESIGNATION OF ALCOHOL AND TOBACCO TAX AND TRADE BUREAU AS ALCOHOL, TOBACCO, AND CANNABIS TAX AND TRADE BUREAU.—

(A) Redesignation.—Section 1111(d) of the Homeland Security Act of 2002 ([6 U.S.C. 531\(d\)](#)) is amended by striking “Tax and Trade Bureau” each place it appears and inserting “Alcohol, Tobacco, and Cannabis Tax and Trade Bureau”.

(B) References.—Any reference to the Tax and Trade Bureau or the Alcohol and Tobacco Tax and Trade Bureau in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Alcohol, Tobacco, and Cannabis Tax and Trade Bureau.

(4) ADDITION OF CANNABIS TO CERTAIN LEGAL AUTHORITIES RELATING TO INTOXICATING LIQUORS.

(A) Wilson Act.—The Act of August 8, 1890 (commonly known as the Wilson Act or the Original Packages Act; 27 U.S.C. 121), is amended—

(i) by inserting “, or cannabis,” after “intoxicating liquors or liquids”; and

(ii) by striking “such liquids or liquors” and inserting “such liquids, liquors, or cannabis”.

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(B) Webb-Kenyon Act.—The Act of March 1, 1913 (commonly known as the Webb-Kenyon Act; 27 U.S.C. 122), is amended—

(i) by inserting “cannabis or any” after “whatsoever, of any”; and

(ii) by inserting “cannabis or” after “which said”.

(C) Victims of Trafficking and Violence Protection Act of 2000.—Section 2 of the Victims of Trafficking and Violence Protection Act of 2000 (27 U.S.C. 122a) is amended—

(i) in subsection (a)—

(I) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(II) by inserting after paragraph (2) the following new paragraph:

“(3) the term ‘marijuana’ has the meaning given the term ‘marihuana’ in section 102 of the Controlled Substances Act (21 U.S.C. 802);”;

(ii) in subsections (b) and (c), by inserting “or marijuana” after “intoxicating liquor” each place it appears.

SEC. 107. CANNABIS AGRICULTURE.

(a) CANNABIS AGRICULTURAL PRODUCTION. The Agricultural Marketing Act of 1946 ([7 U.S.C. 1621](#) et seq.) is amended by adding at the end the following:

“Subtitle H—Cannabis Production

“SEC. 298A. DEFINITIONS.

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"In this subtitle:

"(1) CANNABIS.—The term "cannabis" means the same as "marihuana" as defined in 21 U.S.C. § 802(16).

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 5304](#)).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(4) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(5) STATE DEPARTMENT OF AGRICULTURE.—The term 'State department of agriculture' means the agency, commission, or department of a State government responsible for agriculture in the State.

"(6) TRIBAL GOVERNMENT.—The term 'Tribal government' means the governing body of an Indian tribe.

"SEC. 298B. STATE AND TRIBAL PLANS.

"(a) SUBMISSION.—

"(1) IN GENERAL.—A State or Indian tribe desiring to have primary regulatory authority over the production of cannabis in the State or territory of the Indian tribe shall submit to the Secretary, through the State department of

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, a plan under which the State or Indian tribe monitors and regulates that production as described in paragraph (2).

“(2) CONTENTS.—A State or Tribal plan referred to in paragraph (1)—

“(A) shall only be required to include—

“(i) a practice to maintain relevant information regarding land on which cannabis is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;

“(ii) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of cannabis produced in the State or territory of the Indian tribe;

“(iii) a procedure for the effective disposal of products that are produced in violation of this subtitle; and

“(iv) a procedure to comply with the enforcement procedures under subsection (d); and

“(B) may include any other practice or procedure established by a State or Indian tribe, as applicable, to the extent that the practice or procedure is consistent with this subtitle.

“(3) RELATION TO STATE AND TRIBAL LAW.—

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“(A) NO PREEMPTION.—Nothing in this subsection preempts or limits any law of a State or Indian tribe regulating the production of cannabis, to the extent that law is consistent with this subtitle.

“(B) REFERENCES IN PLANS.—A State or Tribal plan referred to in paragraph (1) may include a reference to a law of the State or Indian tribe regulating the production of cannabis, to the extent that law is consistent with this subtitle.

“(b) APPROVAL.—

“(1) IN GENERAL.—Not later than 60 days after receipt of a State or Tribal plan under subsection (a), the Secretary shall—

“(A) approve the State or Tribal plan if the State or Tribal plan complies with subsection (a); or

“(B) disapprove the State or Tribal plan only if the State or Tribal plan does not comply with subsection (a).

“(2) AMENDED PLANS.—If the Secretary disapproves a State or Tribal plan under paragraph (1)(B), the State, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, may submit to the Secretary an amended State or Tribal plan that complies with subsection (a).

“(c) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to a State or Indian tribe in the development of a State or Tribal plan under subsection (a).

“(d) VIOLATIONS.—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

“(1) IN GENERAL.—A violation of a State or Tribal plan approved under subsection (b) shall be subject to enforcement solely in accordance with this subsection.

“(2) NEGLIGENT VIOLATIONS.—

“(A) IN GENERAL.—A cannabis producer in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b) shall be subject to subparagraph (B) of this paragraph if the State department of agriculture or Tribal government, as applicable, determines that the cannabis producer has negligently violated the State or Tribal plan, including by negligently—

“(i) failing to provide a legal description of land on which the producer produces cannabis; or

“(ii) failing to obtain a license or other required authorization from the State department of agriculture or Tribal government, as applicable.

“(B) CORRECTIVE ACTION PLAN.—A cannabis producer described in subparagraph (A) shall comply with a plan established by the State department of agriculture or Tribal government, as applicable, to correct the negligent violation, including—

“(i) a reasonable date by which the cannabis producer shall correct the negligent violation; and

“(ii) a requirement that the cannabis producer shall periodically report to the State department of agriculture or Tribal

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government, as applicable, on the compliance of the cannabis producer with the State or Tribal plan for a period of not less than the next 2 calendar years.

“(C) RESULT OF NEGLIGENT VIOLATION.—Except as provided in subparagraph (D), a cannabis producer that negligently violates a State or Tribal plan under subparagraph (A) shall not be subject to any criminal or civil enforcement action by the Federal Government or any State government, Tribal government, or local government other than the enforcement action authorized under subparagraph (B).

“(D) REPEAT VIOLATIONS.—A cannabis producer that negligently violates a State or Tribal plan under subparagraph (A) 3 times in a 5-year period shall be ineligible to produce cannabis for a period of 5 years beginning on the date of the third violation.

“(3) OTHER VIOLATIONS.—If the State department of agriculture or Tribal government in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b), as applicable, determines that a cannabis producer in the State or territory has violated the State or Tribal plan with a culpable mental state greater than negligence—

“(A) the State department of agriculture or Tribal government, as applicable, shall immediately report the cannabis producer to—

“(i) the Attorney General; and

“(ii) in the case of a State department of agriculture, the chief law enforcement officer of the State; and

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“(B) paragraph (1) of this subsection shall not apply to the violation.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

“(f) EFFECT.—Nothing in this section prohibits the production of cannabis in a State or the territory of an Indian tribe for which a State or Tribal plan is not approved under this section in accordance with other Federal laws (including regulations).

“SEC. 298C. AUTHORITY TO ISSUE REGULATIONS AND GUIDELINES.

(a) “The Secretary shall have sole authority to issue Federal regulations and guidelines that relate to the production of cannabis, including Federal regulations and guidelines that relate to the implementation of section 298B.”.

(b) No later than 30 days after enactment, the Secretary of Agriculture shall propose regulations implementing this Act:

(c) Such regulations issued by the Secretary shall take into account the following congressional policy choices and directives:

(1) It is the policy of the United States, that with respect to pesticides used in cannabis farming, that regulations on the use of pesticides in cannabis farming shall encourage farmers to implement “best practices” that aim to sequester carbon in soil to improve soil health and implement protocols, including chemical, biological and cultural methods, to control or prevent the introduction of pests on cannabis cultivation. Pest, as used in this section, means any invasive or harmful insect, predatory animal, rodent nematode or weed, and any form of terrestrial, aquatic, or aerial plant or animal virus, fungus, bacteria or other micro-organism.

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(2) The Secretary shall cause cannabis to be added to the agricultural products tracked in the Pesticide Data Program.

(3) That regulations issued under the authority of this section 298C, distinguish between the following types of cannabis cultivation, meaning any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis:

(A) Mixed-Light Cultivation;

(C) Outdoor Cannabis Cultivation; and

(D) Indoor Cannabis Cultivation.

(b) FUNDING FOR CANNABIS RESEARCH

(1) SUPPLEMENTAL AND ALTERNATIVE CROPS.—Section 1473D(c)(3)(E) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 ([7 U.S.C. 3319d\(c\)\(3\)\(E\)](#)) is amended by striking “(including hemp (as defined in section 297A of the Agricultural Marketing Act of 1946))”; by inserting “(including hemp and cannabis (as defined in sections 297A and 298A of the Agricultural Marketing Act of 1946, respectively))” after “material”;

(2) CRITICAL AGRICULTURAL MATERIALS.—Section 5(b)(9) of the Critical Agricultural Materials Act ([7 U.S.C. 178c\(b\)\(9\)](#)) is amended by striking “(including hemp (as defined in section 297A of the Agricultural Marketing Act of 1946))”; by inserting “(including hemp and cannabis (as defined in sections 297A and 298A of the Agricultural Marketing Act of 1946, respectively))” after “hydrocarbon-containing plants”;

(c) LEGITIMACY OF CANNABIS RESEARCH

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(1) IN GENERAL.—Section 7606 of the Agricultural Act of 2014 ([7](#)

[U.S.C. 5940](#)) is amended—

(A) in subsection (b), by inserting “ or cannabis” after each appearance of “hemp” in subsection (b); and

(B) by adding at the end the following:

“(d) CANNABIS STUDY AND REPORT.—

“(1) IN GENERAL.—The Secretary shall conduct a study of agricultural pilot programs—

“(A) to determine the economic viability of the domestic production and sale of cannabis; and

“(B) that shall include a review of—

“(i) each agricultural pilot program; and

“(ii) any other agricultural or academic research relating to cannabis.

“(2) REPORT.—Not later than 120 days after the date of enactment of this subsection, the Secretary shall submit to Congress a report describing the results of the study conducted under paragraph (1).”.

(d) FEDERAL CROP INSURANCE

(1) DEFINITION OF CANNABIS.—Section 502(b) of the Federal Crop Insurance Act ([7 U.S.C. 1502\(b\)](#)) is amended—

(A) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(B) by inserting after paragraph (9) the following:

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“(9) CANNABIS.—The term ‘cannabis’ has the meaning given the term in section 298A of the Agricultural Marketing Act of 1946.”.

(2) INSURANCE PERIOD.—Section 508(a)(2) of the Federal Crop Insurance Act ([7 U.S.C. 1508\(a\)\(2\)](#)) is amended by striking “sweet potatoes, and hemp” and inserting “sweet potatoes, hemp, and cannabis”.

(3) SUBMISSION OF POLICIES AND MATERIALS TO BOARD.—Section 508(h) of the Federal Crop Insurance Act ([7 U.S.C. 1508\(h\)](#)) is amended—

(A) in paragraph (1)(B)—

(i) by adding at the end the following:

“(iii) WAIVER FOR CANNABIS.—The Corporation may waive the viability and marketability requirement under clause (i)(I) in the case of a policy or pilot program relating to the production of cannabis.”; and

(B) in paragraph (3)(C)—

(i) by adding at the end the following:

“(v) in the case of reviewing policies and other materials relating to the production of cannabis, may waive the viability and marketability requirement under subparagraph (A)(ii)(I).”.

(4) AGRICULTURAL COMMODITY.—Section 518 of the Federal Crop Insurance Act ([7 U.S.C. 1518](#)) is amended by inserting “cannabis,” before “aquacultural species”.

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(5) RESEARCH AND DEVELOPMENT AUTHORITY.—Section

522(b) of the Federal Crop Insurance Act ([7 U.S.C. 1522\(b\)](#)) is amended—

(A) in paragraph (2), by adding at the end the following:

“(L) WAIVER FOR CANNABIS.—The Board may waive the viability and marketability requirements under this paragraph in the case of research and development relating to a policy to insure the production of cannabis.”; and

(B) in paragraph (3)—

(i) by adding at the end the following:

“(C) WAIVER FOR CANNABIS.—The Corporation may waive the marketability requirement under subparagraph (A) in the case of research and development relating to a policy to insure the production of cannabis.”.

(e) **RULE OF CONSTRUCTION.** Nothing in this Act authorizes interference with the interstate commerce of cannabis (as defined in section 298A of the Agricultural Marketing Act of 1946, as added by this Act).

SEC. 108. PROTECTING AND RESPECTING STATE LAWS

(a) Under the constitutional power of the Federal Congress to “regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes”;

(1) The transportation or importation of cannabis from any State, Territory, or Possession of the United States that has legalized cannabis into any

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State, Territory, or Possession of the United States that has legalized cannabis for delivery or use therein, is hereby lawful interstate commerce;

(2) The transportation or importation into any State, Territory, or Possession of the United States for delivery or use therein of cannabis, in violation of the laws thereof, is hereby prohibited;

(3) No law in any State, Territory, or Possession of the United States that has legalized cannabis shall unduly burden the interstate commerce in cannabis or discriminate against cannabis businesses from another State, Territory, or Possession of the United States;

(4) Nothing in this Act, or an amendment made by this Act, may be construed to modify the authority of the Federal Government to prevent cannabis trafficking from States or Foreign Nations that have legalized cannabis to those that have not;

(5) Nothing in this Act, or an amendment made by this Act, may be construed to prevent the mere transportation of cannabis from States that have legalized cannabis to other States that have, through those States that have not;

(A) The Bureau of Alcohol, Tobacco, Firearms and Explosives shall expeditiously develop and implement a track-and-trace system to ensure that no cannabis merely traveling through a state is diverted.

SEC. 109. FEDERAL CANNABIS AVAILABLE FOR QUALITY TESTING CALIBRATION.

(a) **FEDERAL STOCK AVAILABLE.**—The Drug Enforcement Administration shall make available upon request and ensure delivery of, from its stock of research cannabis at the University of Mississippi Marijuana Research Facility, to any state-licensed cannabis testing facility, to any state cannabis regulator, to the Alcohol and Tobacco Tax and

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Trade Bureau of the Department of the Treasury, the Food and Drug Administration, and the Bureau of Alcohol, Tobacco, and Firearms, a sufficient qualified sample of cannabis for baseline testing and equipment calibration. The size of a sufficient qualified sample for baseline and calibration testing shall be determined by the state cannabis regulator in the state in which the testing lab is located or federal regulator to which the sample is to be transferred.

SEC. 110. LAW ENFORCEMENT CANNABIS TRAINING AND TECHNOLOGY GRANT PROGRAM.

(a) **IN GENERAL.**—There is created a “Law Enforcement Cannabis Training and Technology Grant Program.”

(b) **GRANT AUTHORIZATION.**— The Attorney General shall carry out and administer the single grant “Law Enforcement Cannabis Training and Technology Grant Program” under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (3).

(c) **USES OF GRANT AMOUNTS.**— The purposes for which grants made under subsection (2) may be made are—

(1) to train law enforcement officers in the new legal landscape and their duties with respect to civilly policing cannabis production and consumption;

(2) to hire and train new, additional career law enforcement officers educated in cannabis legal issues for deployment in policing across the Nation, including by prioritizing the hiring and training of veterans (as defined in section 101 of title 38);

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(3) to procure equipment, technology, or support systems, for the purpose of policing cannabis production and use;

(4) to provide specialized training to law enforcement officers to enhance their conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community;

(5) to increase police participation in multidisciplinary early intervention teams;

(6) to develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State, tribal, and local law enforcement agencies in reorienting the emphasis of their activities from treating cannabis consumption as a criminal activity to civil enforcement and enforcement of driving-under-the-influence statutes, and to train law enforcement officers to use such technologies;

(7) to establish school-based partnerships between local law enforcement agencies and local school systems by using school resource officers who operate in and around elementary and secondary schools to combat school-related underage cannabis use, including the training of school resource officers in resolution and intervention skills and techniques to dissuade underage cannabis use without causing underage users to interact with the judicial or juvenile justice systems;

(8) to provide specialized training to law enforcement officers to—

(A) recognize individuals who have a mental illness; and

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(B) properly interact with individuals who have a mental illness,

including strategies for verbal de-escalation of crises;

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General, \$ [Lorem Ipsum] for each of fiscal years 2019 through 2023, for purposes of carrying out the activities described in subsection (2). There are authorized to be appropriated in years subsequent to fiscal years 2023, such sums as Congress deems appropriate.

SEC. 111. CANNABIS FOREIGN IMPORT AND EXPORT REGULATION.

(a) GENERAL PROVISIONS.

(1) IN GENERAL.— Importers and exporters are responsible for all applicable:

(A) Federal excise taxes and duties collected by U.S. Customs and Border Protection as defined in the Internal Revenue Code; and

(B) Registration and Prior Notice requirements of the U.S. Food and Drug Administration.

(2) UTILIZATION OF OTHER GOVERNMENTAL AGENCIES. — The Secretary of the Treasury may, with the consent of the department or agency affected, utilize the services of any department or other agency of the Government to the extent necessary to carry out his powers and duties under this chapter and authorize officers and employees thereof to act as his agents.

(b) UNLAWFUL BUSINESSES WITHOUT PERMIT.

(1) IN GENERAL.—In order effectively to regulate interstate and foreign commerce in cannabis and to protect the revenue and enforce the postal laws with respect to cannabis:

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(2) It shall be unlawful, except pursuant to a permit issued under this section by the Secretary of the Treasury:

(A) to engage in the business of importing into the United States cannabis; or

(B) for any person so engaged to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, cannabis so imported.

(c) PERMIT.

(1) WHO ENTITLED THERETO.—The following persons shall, on application therefor, be entitled to a permit:

(A) Any person who, as of the date of the application:

(i) holds a valid permit under state law; or

(ii) committed an offense that is no longer an offense in that State; or

(B) Any person unless the Secretary of the Treasury finds:

(i) that such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has, within five years prior to the date of application, been convicted of a felony under Federal or State law or has, within three years prior to date of application, been convicted of a misdemeanor under any Federal law relating to cannabis, including the taxation thereof; or

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(ii) that such person committed an offense that was not legal under State law in the State when and where the conduct took place; or

(iii) that such person is, by reason of his business experience, financial standing, or trade connections, not likely to commence operations within a reasonable period or to maintain such operations in conformity with Federal law; or

(iv) that the operations proposed to be conducted by such person are in violation of the law of the State in which they are to be conducted.

(2) APPLICATIONS.—The Secretary of the Treasury shall prescribe within 60 days of the effective date of this Act, and consistent with the Paperwork Reduction Act—

(A) the manner and form of all applications for permits under this title (including the facts to be set forth therein) and the form of all permits;

(B) separate applications and permits with respect to the various classes of cannabis, and with respect to the various classes of persons entitled to permits under this title, to the extent deemed necessary by the Secretary for the efficient administration of this title;

(C) specify in any permit the authority conferred by the permit and the conditions thereof in accordance with this title.

(3) DURATION.—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(A) General rule.—Except as otherwise provided in this subsection, a permit issued under this title shall continue in effect until suspended, revoked, or annulled as provided in this title, or voluntarily surrendered.

(B) Effect of transfer.—If operations under a permit issued under this title are transferred, the permit automatically terminates 30 days after the date of that transfer, unless an application is made by the transferee before the end of that period for a permit under this title for those operations. If such an application is made, the outstanding permit shall continue in effect until such application is finally acted on by the Secretary.

(C) Definition of transfer.—For the purposes of this section, the term “transfer” means any change of ownership or control, whether voluntary or by operation of law.

(4) CONDITIONS.—A permit under this title shall be conditioned upon—

(A) compliance with all applicable Federal laws relating to production, sale and consumption of cannabis, as well as compliance with all applicable State laws relating to said activities in the State in which the permit applicant resides and does business; and

(B) payment to the Secretary of a reasonable permit fee in an amount determined by the Secretary to be sufficient collectively over time to offset the cost of implementing and overseeing all aspects of cannabis regulation by the Federal Government; and

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(C) such other conditions as the Secretary may deem necessary to assure compliance with this law.

(D) Disclaimer.—The issuance of a permit under this title does not deprive the United States of any remedy for a violation of law.

(d) PERMIT APPLICATION.

(1) IN GENERAL.— Applications for permits to engage in any of the operations set forth in the section must be made on the required form. The application will include all data, written statements, affidavits, documents, or other evidence submitted in support of the application, or upon a hearing.

(2) CONFIDENTIALITY. All financial information submitted by a permit applicant in connection with an application shall be deemed confidential business information and exempt from disclosure under the Freedom of Information Act.

(3) INCOMPLETE OR INCORRECTLY EXECUTED APPLICATIONS.— Incomplete or incorrectly executed applications will not be acted upon, but the applicant shall be entitled to file a new application without prejudice, or to complete the application already filed.

(4) CHANGE IN OWNERSHIP, MANAGEMENT, OR CONTROL OF THE APPLICANT. — In the event of any change in the ownership, management, or control of the applicant (in case of a corporation, any change in the officers, directors, or persons holding more than 10 percent of the corporate stock), after the date of filing of any application for a permit and prior to final action on such application, the applicant shall notify the appropriate officer immediately of such change.

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(5) INDIVIDUAL PLANT OR PREMISES.—An application for a basic permit must be filed, and permit issued, to cover each individual plant or premises where any of the businesses specified in this section is engaged in.

(6) DEADLINE.— Within 90 days of receipt of an application, the Secretary or his delegate must notify the applicant whether the application has been approved or denied. This 90 day period may be extended once, by an additional 90 days, if the Secretary or his designee finds that unusual circumstances require additional time to consider the issues presented by an application. If the appropriate TTB officer extends the period, he or she must notify the applicant by letter, along with a brief explanation of the unusual circumstances causing the time period for consideration of the application to be extended. If the applicant receives no decision from the Secretary or his designee within the time periods set forth in this paragraph, the applicant may file a mandamus action as provided for in section (5)(F) below.

(e) PERMIT REVIEW.

(1) REFUSAL OF PERMIT.—If upon examination of any application for a permit the Secretary has reason to believe that the applicant is not entitled to such permit, the Secretary shall so notify the applicant and, upon request by the applicant, afford the applicant due notice and opportunity for hearing on the application. If the Secretary, after affording such notice and opportunity for hearing, still finds that the applicant is not entitled to a permit hereunder, the Secretary shall by order deny the application stating the findings which are the basis for the order

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(2) DENIAL, REVOCATION, SUSPENSION, AND ANNULMENT.—

(A) Generally.—After due notice and opportunity for hearing consistent with 5 U.S.C. § 553, the Secretary may order a permit under this title—

(i) be denied, revoked or suspended for such period as the Secretary deems appropriate, if the Secretary finds that the permittee has willfully violated any of the conditions of the permit, but for a first violation of the conditions the permit shall be subject to suspension only;

(ii) be revoked if the Secretary finds that the permittee has not engaged in the operations authorized by the permit for a period of more than 2 years; or

(iii) be annulled if the Secretary finds that the permit was procured through fraud, or misrepresentation, or concealment of material fact.

(B) Order to state basis for order.—The order shall state the findings which are the basis for the order.

(3) SERVICE OF ORDERS.—Each order of the Secretary with respect to any denial of application, suspension, revocation, annulment, or other proceedings, shall be served—

(A) in person by any officer or employee of the Secretary designated by him or any internal revenue or customs officer authorized by the Secretary for the purpose; or

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(B) by mailing the order by registered mail, addressed to the applicant or respondent at his last known address in the records of the Secretary.

(4) PROCEEDINGS. — The provisions of 27 C.F.R. Part 200— Rules of Practice in Permit Proceedings, as amended from time to time, shall be applicable to the jurisdiction, powers, and duties of the Secretary of the Treasury under this section.

(5) APPEAL.— An appeal may be taken by the permittee or applicant for a permit from any order of the Secretary of the Treasury denying an application for, or suspending, revoking, or annulling, a basic permit. Such appeal shall be taken by filing, in the court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, within sixty days after the entry of such order, a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose, and thereupon the Secretary shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before the Secretary or unless there were reasonable grounds for failure so to do. The finding of the

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The

Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order.

The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this subsection shall, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(6) MANDAMUS - Should the Secretary fail to make a permit application decision within ninety days of submission of a completed application, and applicant shall have the right to compel a decision pursuant to 28 U.S.C. § 1361 in any United States District Court where the applicant resides or does business or in the United States District Court for the District of Columbia. Should the applicant

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

substantially prevail, such applicant shall be entitled to attorneys fees and costs associated with compelling a decision under this Section.

(7) STATUTE OF LIMITATIONS.—

(A) In general.—No proceeding for the suspension or revocation of a permit for violation of any condition thereof relating to compliance with Federal law shall be instituted by the Secretary more than 18 months after conviction of the violation of Federal law, or, if no conviction has been had, more than 3 years after the violation occurred.

(B) Compromise.—No permit shall be suspended or revoked for a violation of any such condition thereof if the alleged violation of Federal law has been compromised by any officer of the Government authorized to compromise such violation.

(f) PENALTIES.

(1) GENERALLY.—Any person violating this section shall be fined not more than \$1,000 per article imported unlawfully.

(2) SETTLEMENT IN COMPROMISE.—The Secretary of the Treasury is authorized, with respect to any violation of this section, to compromise the liability arising with respect to such violation upon payment of a sum not in excess of \$500 for each violation to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts

(3) CIVIL ACTION FOR RELIEF.—The Attorney General may, in a civil action, obtain appropriate relief to prevent and restrain a violation of this title.

(g) IMPORTED CANNABIS QUALITY.

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(1) GENERALLY. —The regulations promulgated by the Secretary under this Act shall ensure that any cannabis imported into the United States meets the quality, packaging, and labeling standards for cannabis produced in the United States for the same commercial purpose.

SEC. 112. ESTABLISHMENT OF EXCISE TAX RELATING TO CANNABIS PRODUCTS.

IN GENERAL.—Subtitle E of title I of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

“CHAPTER 56—CANNABIS PRODUCTS

“SUBCHAPTER A. TAX ON CANNABIS PRODUCTS

“Sec. 5901. Imposition of tax.

“Sec. 5902. Liability and Method of Payment

“Sec. 5903. Exemption from Tax

“Sec. 5904. Credit, Refund, or Drawback of Tax

“SEC. 5901 IMPOSITION OF TAX

“(a) IMPOSITION OF TAX.—There is hereby imposed on any cannabis product produced in or imported into the United States a tax equal to X percent of the prevailing sales price of cannabis products sold in the United States during the 12-month period ending one calendar quarter before such calendar year, expressed on a per ounce basis, as determined by the Secretary, distinguishing between the per-ounce price of flower, edible, and concentrate cannabis.

“SEC. 5902. LIABILITY AND METHOD OF PAYMENT.

“(a) LIABILITY FOR TAX.—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

“(1) ORIGINAL LIABILITY.—The producer or importer of any cannabis product shall be liable for the taxes imposed thereon by section 5901.

“(2) TRANSFER OF LIABILITY.—

“(A) IN GENERAL.—When cannabis products are transferred, without payment of tax, pursuant to section 5903, the liability for tax shall be transferred in accordance with the provisions of this paragraph.

“(B) TRANSFER BETWEEN PRODUCER AND EXPORT WAREHOUSE PROPRIETOR.—In the case of cannabis products which are transferred between the bonded premises of producers and export warehouse proprietors, the transferee shall become liable for the tax upon receipt by the transferee of such articles, and the transferor shall thereupon be relieved of their liability for such tax.

“(C) TRANSFER FROM CUSTOMS CUSTODY TO PRODUCER.—In the case of cannabis products which are released in bond from customs custody for transfer to the bonded premises of a producer, the transferee shall become liable for the tax on such articles upon release from customs custody, and the importer shall thereupon be relieved of their liability for such tax.

“(D) RETURNED TO BOND.—All provisions of this chapter applicable to cannabis products in bond shall be applicable

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

“(b) METHOD OF PAYMENT OF TAX.—

“(1) IN GENERAL.—

“(A) DETERMINATION AND PAYMENT OF TAX.—

The taxes imposed by section 5901 shall be determined at the time of removal of the cannabis products. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return.

“(B) POSTPONEMENT.—Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the cannabis products where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder.

“(C) ADMINISTRATION AND PENALTIES.—All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5901.

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

“(2) TIME FOR PAYMENT OF TAXES.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of taxes on cannabis products removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

“(B) IMPORTED ARTICLES.—In the case of cannabis products which are imported into the United States, the following provisions shall apply:

“(i) IN GENERAL.—The last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is entered into the customs territory of the United States.

“(ii) SPECIAL RULE FOR ENTRY OF WAREHOUSING.—Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the first such warehouse.

“(iii) FOREIGN TRADE ZONES.—Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

purposes of this subsection as if such zone were a single customs warehouse.

“(iv) EXCEPTION FOR ARTICLES DESTINED FOR EXPORT.—Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

“(C) CANNABIS PRODUCTS BROUGHT INTO THE UNITED STATES FROM PUERTO RICO.—In the case of cannabis products which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

“(D) SPECIAL RULE WHERE DUE DATE FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

“(E) SPECIAL RULE FOR UNLAWFULLY PRODUCED CANNABIS PRODUCTS.—In the case of any cannabis products produced in the United States at any place other than the premises of a producer that has filed the bond and obtained the permit

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

required under this chapter, tax shall be due and payable immediately upon production.

“(3) PAYMENT BY ELECTRONIC FUND TRANSFER.—Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on cannabis products by section 5901 (or section 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank. Rules similar to the rules of section 5061(e)(3) shall apply to the \$5,000,000 amount specified in the preceding sentence.

“(c) DEFINITION OF PRICE.—

“(1) CONTAINERS, PACKING AND TRANSPORTATION CHARGES.—In determining, for the purposes of this chapter, the price for which an article is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this chapter, whether or not stated as a separate charge. A transportation, delivery, insurance, installation, or other charge (not required by the preceding sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Secretary in accordance with regulations.

“(2) CONSTRUCTIVE SALE PRICE.—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

“(A) IN GENERAL.—If an article is sold directly to consumers, sold on consignment, or sold (otherwise than through an arm’s length transaction) at less than the fair market price, or if the price for which the article sold cannot be determined, the tax under section 5901(a) shall be computed on the price for which such articles are sold, in the ordinary course of trade, by producers thereof, as determined by the Secretary.

“(B) ARM’S LENGTH.—

“(i) IN GENERAL.—For purposes of this section, a sale is considered to be made under circumstances otherwise than at arm’s length if—

“(I) the parties are members of the same controlled group, whether or not such control is actually exercised to influence the sale price, or

“(II) the sale is made pursuant to special arrangements between a producer and a purchaser.

“(ii) CONTROLLED GROUPS.—

“(I) IN GENERAL.—The term ‘controlled group’ has the meaning given to such term by subsection (a) of section 1563, except that ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears in such subsection.

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 Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

“(II) CONTROLLED GROUPS WHICH

INCLUDE NONINCORPORATED PERSONS.—

Under regulations prescribed by the Secretary,
 principles similar to the principles of subclause (I)
 shall apply to a group of persons under common
 control where one or more of such persons is not a
 corporation.

“(d) PARTIAL PAYMENTS AND INSTALLMENT ACCOUNTS.—

“(1) PARTIAL PAYMENTS.—There shall be paid upon each
 payment with respect to the article a percentage of such payment equal to
 the rate of tax in effect on the date such payment is due for any—

“(A) contract for the sale of an article wherein it is
 provided that the price shall be paid by installments and title to the
 article sold does not pass until a future date notwithstanding partial
 payment by installments,

“(B) conditional sale, or

“(C) chattel mortgage arrangement wherein it is provided
 that the sales price shall be paid in installments.

“(2) SALES OF INSTALLMENT ACCOUNTS.—If installment
 accounts, with respect to payments on which tax is being computed as
 provided in paragraph (1), are sold or otherwise disposed of, then
 paragraph (1) shall not apply with respect to any subsequent payments on
 such accounts (other than subsequent payments on returned accounts with

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

respect to which credit or refund is allowable by reason of section

6416(b)(5)), but instead—

“(A) there shall be paid an amount equal to the difference

between—

“(i) the tax previously paid on the payments on such installment accounts, and

“(ii) the total tax which would be payable if such installment accounts had not been sold or otherwise disposed of (computed as provided in paragraph (1)), except that

“(B) if any such sale is pursuant to the order of, or subject to the approval of, a court of competent jurisdiction in a bankruptcy or insolvency proceeding, the amount computed under subparagraph (A) shall not exceed the sum of the amounts computed by multiplying—

“(i) the proportionate share of the amount for which such accounts are sold which is allocable to each unpaid installment payment, by

“(ii) the rate of tax under this chapter in effect on the date such unpaid installment payment is or was due;

“(3) The sum of the amounts payable under this subsection in respect of the sale of any article shall not exceed the total tax.

“SEC. 5903. EXEMPTION FROM TAX.

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

“(a) IN GENERAL.—Cannabis products on which the internal revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any producer in approved containers free of tax and not for resale for use—

“(1) exclusively in scientific research by a laboratory,

“(2) by a proprietor of a cannabis production facility in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to cannabis or cannabis operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue, or

“(3) by the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonconsumption purposes.

“(b) CANNABIS PRODUCTS TRANSFERRED OR REMOVED IN BOND FROM DOMESTIC FACTORIES AND EXPORT WAREHOUSES.—

“(1) IN GENERAL.—Subject to such regulations and under such bonds as the Secretary shall prescribe, a producer or export warehouse proprietor may transfer cannabis products, without payment of tax, to the bonded premises of another producer or export warehouse proprietor, or remove such articles, without payment of tax, for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

“(2) LABELING.—Cannabis products may not be transferred or removed under this subsection unless such products bear such marks, labels, or notices as the Secretary shall by regulations prescribe.

“(c) CANNABIS PRODUCTS RELEASED IN BOND FROM CUSTOMS

CUSTODY.—Cannabis products imported or brought into the United States may be released from customs custody, without payment of tax, for delivery to a producer or export warehouse proprietor if such articles are not put up in packages, in accordance with such regulations and under such bond as the Secretary shall prescribe.

“(d) CANNABIS PRODUCTS EXPORTED AND RETURNED.—Cannabis

products classifiable under item 9801.00.10 of the Harmonized Tariff Schedule of the United States (relating to duty on certain articles previously exported and returned), as in effect on the date of the enactment of this [Model Legislation title] Act, may be released from customs custody, without payment of that part of the duty attributable to the internal revenue tax for delivery to the original producer of such cannabis products or to the export warehouse proprietor authorized by such producer to receive such products, in accordance with such regulations and under such bond as the Secretary shall prescribe. Upon such release such products shall be subject to this chapter as if they had not been exported or otherwise removed from internal revenue bond.

“SEC. 5904. CREDIT, REFUND, OR DRAWBACK OF TAX.

“(a) CREDIT OR REFUND.—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

“(1) IN GENERAL.—Credit or refund of any tax imposed by this chapter or section 7652 shall be allowed or made (without interest) to the producer, importer, or export warehouse proprietor on proof satisfactory to the Secretary that the claimant producer, importer, or export warehouse proprietor has paid the tax on—

“(A) cannabis products withdrawn from the market by the claimant, or

“(B) such products lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the claimant.

“(2) CANNABIS PRODUCTS LOST OR DESTROYED IN BOND.—

“(A) EXTENT OF LOSS ALLOWANCE.—No tax shall be collected in respect of cannabis products lost or destroyed while in bond, except that such tax shall be collected—

“(i) in the case of loss by theft, unless the Secretary finds that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor of cannabis production facility, owner, consignor, consignee, bailee, or carrier, or their employees or agents,

“(ii) in the case of voluntary destruction, unless such destruction is carried out as provided in paragraph (3), and

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

“(iii) in the case of an unexplained shortage of cannabis products.

“(B) PROOF OF LOSS.—In any case in which cannabis products are lost or destroyed, whether by theft or otherwise, the Secretary may require the proprietor of a cannabis production facility or other person liable for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be upon the proprietor of the cannabis production facility or other person responsible for the tax under section 5901 to establish to the satisfaction of the Secretary that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor of the cannabis production facility, owner, consignor, consignee, bailee, or carrier, or their employees or agents.

“(C) REFUND OF TAX.—In any case where the tax would not be collectible by virtue of subparagraph (A), but such tax has been paid, the Secretary shall refund such tax.

“(D) LIMITATIONS.—Except as provided in subparagraph (E), no tax shall be abated, remitted, credited, or refunded under this paragraph where the loss occurred after the tax was determined. The abatement, remission, credit, or refund of taxes provided for by subparagraphs (A) and (C) in the case of loss

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

of cannabis products by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

“(E) APPLICABILITY.—The provisions of this paragraph shall extend to and apply in respect of cannabis products lost after the tax was determined and before completion of the physical removal of the cannabis products from the bonded premises.

“(3) VOLUNTARY DESTRUCTION.—The proprietor of a cannabis production facility or other persons liable for the tax imposed by this chapter or by section 7652 with respect to any cannabis product in bond may voluntarily destroy such products, but only if such destruction is under such supervision and under such regulations as the Secretary may prescribe.

“(4) LIMITATION.—Any claim for credit or refund of tax under this subsection shall be filed within 6 months after the date of the withdrawal from the market, loss, or destruction of the products to which the claim relates, and shall be in such form and contain such information as the Secretary shall by regulations prescribe.

“(b) DRAWBACK OF TAX.—There shall be an allowance of drawback of tax paid on cannabis products, when shipped from the United States, in accordance with such regulations and upon the filing of such bond as the Secretary shall prescribe.

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

SEC. 113. CANNABIS SAFETY.

—Subtitle V of title 21 of the United States Code (The Food, Drug, and Cosmetic Act) is amended by adding at the end the following new Part:

"PART J—CANNABIS PRODUCTS

"Sec. 360ggg. Definitions.

"Sec. 360ggg-j. Regulation of medical cannabis

"Sec. 360ggg-2. Cannabis-Infused Foods

"Sec. 360ggg-3. Inapplicability of drug fees to medical cannabis

"SEC. 360ggg. DEFINITIONS.

(a) In this part:

(1) The term "designated medical cannabis product" means any "medical cannabis product" that also meets the standards set forth in an official compendium.

(2) Any other medical cannabis product deemed appropriate by the Secretary, after taking into account any investigational new drug application or investigational new animal drug application for the same medical cannabis product submitted in accordance with regulations applicable to such applications in title 21 of the Code of Federal Regulations, unless any period of exclusivity for a new drug under section 355(c)(3)(E)(ii) of this title or section 355(j)(5)(F)(ii) of this title, or the extension of any such period under section 355a of this title, or any period of exclusivity for a new animal drug under section 360b(c)(2)(F) of this title, applicable to such medical cannabis product has not expired.

(b) The term "medical cannabis product" means an article that—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(1) is labeled such that the labeling and promotional claims themselves intend to show uses that bring it within the drug definition; and w§ 802(16)).

“SEC. 360ggg-1. REGULATION OF MEDICAL CANNABIS PRODUCTS.

(a) CERTIFICATION OF DESIGNATED MEDICAL CANNABIS PRODUCTS.—

(1) SUBMISSION. Beginning 30 days after the passage of this act, any [person](#) who seeks to initially introduce or deliver for introduction a designated medical cannabis product into [interstate commerce](#) may file with the [Secretary](#) a request for certification of a medical cannabis product as a designated medical cannabis product. Any such request shall contain the following information:

(A) A description of the medical cannabis product.

(B) The name and address of the sponsor.

(C) The name and address of the facility or facilities where the medical cannabis product is or will be cultivated and manufactured.

(D) Any other information deemed appropriate by the [Secretary](#) to determine whether the medical cannabis product is a designated medical cannabis product.

(2) GRANT OF CERTIFICATION. The certification requested under paragraph (1) is deemed to be granted unless, within 30 days of the filing of such request, the [Secretary](#) finds that—

(A) the medical cannabis product subject to the certification is not a medical cannabis product.

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(B) the request does not contain the information required under paragraph (1) or otherwise lacks sufficient information to permit the [Secretary](#) to determine that the medical cannabis product is a designated medical cannabis product; or

(C) denying the request is necessary to protect the public health.

(3) EFFECT OF CERTIFICATION

(A) In general

(i) **Approved uses.**— A designated medical cannabis product for which a certification is granted under paragraph (2) is deemed, alone or in combination, as medically appropriate, with another designated medical cannabis product or products for which a certification or certifications have been granted, to have in effect an approved [application](#) under section [355](#) or [360b](#) of this title, subject to all applicable postapproval requirements, for the following indications for use:

(I) the treatment of arthritis.

(II) the treatment of chemotherapy-induced and non-chemotherapy-induced nausea and vomiting

(III) the stimulation of appetite

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(IV) the treatment of the symptoms of patients with HIV/AIDS or for anorexia associated with AIDS

(V) the treatment of temporary or chronic pain and analgesia.

(VI) the treatment of muscle spasms

(VII) the treatment of insomnia and restlessness.

(VIII) Any other indication for use for a designated medical cannabis product or combination of designated medical cannabis products deemed appropriate by the Secretary, unless any period of exclusivity for a new drug under clause (iii) or (iv) of section 355(c)(3)(E) of this title, clause (iii) or (iv) of section 355(j)(5)(F) of this title, or section 360cc of this title, or the extension of any such period under section 355a of this title, applicable to such indication for use for such medical cannabis product or combination of products has not expired.

(ii) Labeling.—The requirements of sections 353(b)(4) and 352(f) of this title are deemed to have been met for a designated medical cannabis product if

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

the [labeling](#) on the final use container for such medical cannabis product bears—

(I) the information required by [section 353\(b\)\(4\) of this title](#);

(II) a warning statement concerning the use of the medical cannabis products as determined by the [Secretary](#) by regulation; and

(III) appropriate directions and warnings concerning storage and handling.

(B) Inapplicability of exclusivity provisions

(i) No exclusivity for a certified medical cannabis product. No designated medical cannabis product deemed under subparagraph (A)(i) to have in effect an approved [application](#) is eligible for any period of exclusivity for a [new drug](#) under [section 355\(c\)](#), [355\(j\)](#), or [360cc](#) of this title, or the extension of any such period under [section 355a of this title](#), on the basis of such deemed approval.

(ii) Effect on certification. No period of exclusivity under [section 355\(c\)](#), [355\(j\)](#), or [section 360cc of this title](#), or the extension of any such period under [section 355a of this title](#), with respect to an [application for a drug product](#), shall prohibit, limit, or otherwise affect the

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

submission, grant, or effect of a certification under this section, except as provided in subsection (a)(3)(A)(i)(VIII) and [section 360ddd\(1\)\(H\) of this title](#).

(4) WITHDRAWAL, SUSPENSION, OR REVOCATION OF APPROVAL

(A) Withdrawal, suspension of approval. Nothing in this part limits the [Secretary](#)'s authority to withdraw or suspend approval of a [drug product](#), including a designated medical cannabis product deemed under this section to have in effect an approved [application](#) under [section 355 of this title](#) or [section 360b of this title](#).

(B) Revocation of certification. The [Secretary](#) may revoke the grant of a certification under paragraph (2) if the [Secretary](#) determines that the request for certification contains any material omission or falsification.

(b) PRESCRIPTION OR RECOMMENDATION REQUIREMENT.

(1) In general—A designated medical cannabis product is not approved for use without a prescription by a qualified medical professional or a recommendation by a qualified medical professional as defined by the law of the state in which the qualified medical professional is providing said prescription or recommendation.

(2) Certain Historically Understood Uses—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(A) No prescription required for certain uses.

Notwithstanding paragraph (1), designated medical cannabis products may be provided without a prescription for the following uses:

(i) the treatment of analgesia.

(ii) the treatment of insomnia and restlessness

(iii) as an appetite stimulant

(B) Labeling. For medical cannabis products provided pursuant to subparagraph (A), the Secretary shall issue labeling requirements within 30 days of the passage of this Act.

(5) NO DRUG PRECLUSION. Notwithstanding any other law, 21 U.S.C. § 331(l), the “drug preclusion” rule, shall not apply to “marihuana,” as defined in 21 U.S.C. § 802(16). Notwithstanding any other federal law or provision of the Food, Drug, and Cosmetics Act, the Food and Drug Administration shall treat cannabis without respect to the doctrine of drug preclusion.

“SEC. 360ggg-2. CANNABIS-INFUSED FOODS

(a) NO SUPPLEMENT/ADDITIVE PRECLUSION. Notwithstanding any other law, 21 U.S.C. § 321(s)(6), shall not apply to “marihuana,” as defined in 21 U.S.C. § 802(16). Notwithstanding any other federal law or provision of the Food, Drug, and Cosmetics Act, the Food and Drug Administration shall treat cannabis without respect to the doctrine of dietary supplement and food additive preclusion.

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(b) MEDICAL-USE CANNABIS-INFUSED FOODS; CLASSIFICATION AS OLD

DIETARY INGREDIENT, Notwithstanding any other law, "marihuana," as defined in 21 U.S.C. § 802(16), shall be deemed to have been marketed in the United States as a dietary ingredient before October 15, 1994 for the purposes of 21 U.S.C. §§ 350b(a), 350b(d).

(c) ADULT-USE CANNABIS-INFUSED FOODS; CLASSIFICATION AS

GENERALLY SAFE THROUGH COMMON EXPERIENCE, Notwithstanding any other law, "marihuana," as defined in 21 U.S.C. § 802(16), shall be deemed to be generally recognized as safe through experience based on common use in food prior to January 1, 1958, for the purposes of 21 U.S.C. § 321(s) and 21 C.F.R. § 170.30(a).

"SEC. 360ggg-3. LIABILITY AND METHOD OF PAYMENT.

(a) A designated medical cannabis product, alone or in combination with another designated medical cannabis product or products (as medically appropriate) deemed under [section 360ggg-1 of this title](#) to have in effect an approved [application](#) shall not be assessed fees under section [379h\(a\)](#) or [379j-12\(a\)](#) of this title on the basis of such deemed approval.

SEC. 114. REPATRIATION OF CANNABIS BUSINESS FUNDS AND REVIEW OF CONVICTIONS FOR FEDERAL CANNABIS OFFENSES.

(a) REPATRIATION OF FUNDS. Notwithstanding any other provision of law, the federal government shall not pursue, and shall immediately desist any present administrative or enforcement action against any U.S. person where the cause of controversy is rooted in the illicit cannabis trade for non-violent acts having occurred between the passage of the Marijuana Tax Act of 1937 (Pub. L. 75-238, 50 Stat. 551) and

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

this Act, nor shall the proceeds of such trade or acts be considered the proceeds of illegal drug trade or a criminal activity.

(1) This provision applies solely to persons who traded exclusively in cannabis rather than other substances controlled under the Controlled Substances Act;

(2) This provision applies to each and every organ of the federal government;

(3) This provision does not apply to acts occurring after the passage of this Act or transactions involving persons under the age of 18 at the time of the transaction;

(4) This provision does not apply to U.S. persons that are or were merely the instrumentality of a foreign agent, "drug cartel," or power;

(5) The federal and administrative courts of the United States shall not have jurisdiction to hear cases brought by the federal government that meet the criteria described in Subsection (1) of this Section.

(b) REVIEW OF CANNABIS OFFENSES. The Attorney General of the United States is directed to review every federal conviction where the convicted individual is currently serving a sentence and the individual was convicted of a cannabis offense between the passage of the Marijuana Tax Act of 1937 (Pub. L. 75-238, 50 Stat. 551) and the passage of this Act, and provide an individualized recommendation to the President of the United States as to a grant of reprieve or pardon. The Attorney General shall recommend a full pardon for any non-violent cannabis offender currently in federal prison, with all

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

deliberate speed. Nothing in this provision shall be construed to infringe upon the President's sole prerogative under Article II to grant reprieves and pardons.

SEC. 115. RESTORING AMERICAN COMMUNITIES HARMED BY THE WAR ON DRUGS.

(a) GRANTS FOR EXPUNGEMENT OF CANNABIS CONVICTIONS.—There is authorized to be appropriated to the Attorney General to award grants to States and units of local government for the purpose of administering, expanding, or developing expungement or sealing programs for convictions of possession of cannabis \$ [Lorem Ipsum] for each of fiscal years 2019 through 2023 with not less than 50 percent of those funds being directed to cover the cost of public defenders or legal aid providers.

(b) CANNABIS OPPORTUNITY TRUST FUND.—

(1) Transfer.—The Secretary of the Treasury shall transfer to the trust fund established under subsection (b) the sum of 20% of the revenue generated by the excise tax on cannabis products described in Section 13 of this Act.

(2) Trust Fund.—

(A) In General.—There is established in the Treasury of the United States a trust fund to be known as the Cannabis Opportunity Trust Fund, which shall consist of amounts transferred under subsection (b).

(B) Use Of Amounts.—Amounts in the trust fund established under paragraph (1) shall be made available to the Administrator of the Small Business Administration to provide loans under section 7(m) of the Small Business Act (15 U.S.C. 636(m)) to assist—

(i) small business concerns owned and controlled by women, as defined in section 3 of that Act (15 U.S.C. 632), that operate in the cannabis industry; and

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(ii) small business concerns owned and controlled by socially and economically disadvantaged individuals, as defined in section 8(d)(3)(C) of that Act (15 U.S.C. 637(d)(3)(C)), that operate in the cannabis industry.

(c) GAO STUDY ON DIVERSITY AND INCLUSION.—

(1) Study.—The Comptroller General of the United States shall carry out a study on the barriers to marketplace entry, including in the licensing process, and the access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses.

(2) Report.—The Comptroller General shall issue a report to the Congress—

(A) containing all findings and determinations made in carrying out the study required under subsection (A); and

(B) containing any regulatory or legislative recommendations for removing barriers to marketplace entry, including in the licensing process, and expanding access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses.

SEC. 116 COMPTROLLER GENERAL REVIEW OF LAWS AND REGULATIONS.

IN GENERAL.—The Comptroller General shall conduct a review of Federal laws, regulations, and policies to determine if any changes in them are desirable in the light of the purposes and provisions of this Act. Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall make to Congress and the relevant

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

agencies such recommendations relating to the results of that review as the Comptroller General deems appropriate.

SEC. 117 UNITED STATES INTERNATIONAL CANNABIS COMMERCE POLICY

(a) UNITED STATES TRADE OBJECTIVES WITH RESPECT TO CANNABIS AND

AUTHORIZATION FOR TRADE MISSIONS.

(1) The President of the United States and the United States Trade Representative shall send trade missions and engage in treaty-making with foreign jurisdictions that have legalized the import and export of cannabis to provide for the legal trade between the United States and foreign jurisdictions.

(2) The principal negotiating objectives of the United States with respect to trade shall include the removal of unjustified foreign barriers to trade in cannabis, cannabis derivatives, and cannabis products.

(b) RULE OF CONSTRUCTION FOR INTERNATIONAL TREATIES RESPECTING DRUG POLICY; FEDERAL PRIMACY ON SCHEDULING DECISIONS.

(1) It is the policy of the United States, consistent with the Supreme Court decisions in *Reid v. Covert*, 354 U.S. 1 (1957) and *Murray v. The Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64 (1804), that the power of the federal government to control, alter, heighten, lower, abolish, or likewise modify drug control scheduling for any particular substance, including cannabis, is a vested power of the Article I constitutional lawmaking power that no treaty, including the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, 1972 Protocol Amending the Single Convention on Narcotic Drugs, and the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, may infringe upon or otherwise

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

modify. This provision shall constitute a rule of construction for all federal courts to apply.

SEC. 118. UNIFORMITY OF FEDERAL REFERENCES TO CANNABIS.

— Notwithstanding any other federal law, in any place in the code of the United States, in the statutes of the United States, or in the rules, regulations, guidance, interpretations, or other promulgations of various federal administrative bureaus and agencies, wherever there appears or may appear the term “marihuana” or “marijuana”, that term shall be struck and the term “cannabis” shall be inserted, and capitalized consistently with the stricken text’s capitalization.

TITLE II - FINANCIAL INSTITUTION CUSTOMER PROTECTION ACT

SECTION 2. SHORT TITLE.

—This Act may be cited as the “Financial Institution Customer Protection Act of 2019”.

SECTION 201. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMINATION REQUESTS AND ORDERS.

(a) TERMINATION REQUESTS OR ORDERS MUST BE VALID.—

(1) IN GENERAL.—An appropriate Federal banking agency may not formally or informally request or order a depository institution to terminate a specific customer account or group of customer accounts or to otherwise restrict or discourage a depository institution from entering into or maintaining a banking relationship with a specific customer or group of customers unless—

(A) the agency has a valid reason for such request or order; and

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(B) such reason is not based solely on reputation risk; and

(C) only when respecting the Supreme Court decision in *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963) placing First Amendment restrictions on governmental power to disfavor industries or businesses by informal censorship.

(2) TREATMENT OF NATIONAL SECURITY THREATS.—If an appropriate Federal banking agency believes a specific customer or group of customers is, or is acting as a conduit for, an entity which—

(A) poses a threat to national security;

(B) is involved in terrorist financing;

(C) is an agency of the Government of Iran, North Korea, Syria, or any country listed from time to time on the State Sponsors of Terrorism list;

(D) is located in, or is subject to the jurisdiction of, any country specified in subparagraph (C); or

(E) does business with any entity described in subparagraph (C) or (D), unless the appropriate Federal banking agency determines that the customer or group of customers has used due diligence to avoid doing business with any entity described in subparagraph (C) or (D).

such belief shall satisfy the requirement under paragraph (1).

(b) NOTICE REQUIREMENT.—

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(1) IN GENERAL.—If an appropriate Federal banking agency formally or informally requests or orders a depository institution to terminate a specific customer account or a group of customer accounts, the agency shall—

(A) provide such request or order to the institution in writing; and

(B) accompany such request or order with a written justification for why such termination is needed, including any specific laws or regulations the agency believes are being violated by the customer or group of customers, if any.

(2) JUSTIFICATION REQUIREMENT.—A justification described under paragraph (1)(B) may not be based solely on the reputation risk to the depository institution.

(c) CUSTOMER NOTICE.—

(1) NOTICE REQUIRED.—Except as provided under paragraph (2) or as otherwise prohibited from being disclosed by law, if an appropriate Federal banking agency orders a depository institution to terminate a specific customer account or a group of customer accounts, the depository institution shall inform the specific customer or group of customers of the justification for the customer's account termination described under subsection (b).

(2) NOTICE PROHIBITED.—

(A) NOTICE PROHIBITED IN CASES OF NATIONAL SECURITY.—If an appropriate Federal banking agency requests or orders a depository institution to terminate a specific customer account or a group of customer accounts based on a belief that the customer or customers

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

pose a threat to national security, or are otherwise described under subsection (a)(2), neither the depository institution nor the appropriate Federal banking agency may inform the customer or customers of the justification for the customer's account termination.

(B) NOTICE PROHIBITED IN OTHER CASES.—If an appropriate Federal banking agency determines that the notice required under paragraph (1) may interfere with an authorized criminal investigation, neither the depository institution nor the appropriate Federal banking agency may inform the specific customer or group of customers of the justification for the customer's account termination.

(d) REPORTING REQUIREMENT.—Each appropriate Federal banking agency shall issue an annual report to the Congress stating—

(1) the aggregate number of specific customer accounts that the agency requested or ordered a depository institution to terminate during the previous year; and

(2) the legal authority on which the agency relied in making such requests and orders and the frequency on which the agency relied on each such authority.

(e) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term “appropriate Federal banking agency” means—

(A) the appropriate Federal banking agency, as defined under section 3 of the Federal Deposit Insurance Act ([12 U.S.C. 1813](#)); and

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Contact: Randal John Meyer, ExecutiveDirector@GlobalCannabisCommerce.org

(B) the National Credit Union Administration, in the case of an insured credit union.

(2) DEPOSITORY INSTITUTION.—The term “depository institution” means—

(A) a depository institution, as defined under section 3 of the Federal Deposit Insurance Act ([12 U.S.C. 1813](#)); and

(B) an insured credit union, as defined under section 101 of the Federal Credit Union Act ([12 U.S.C. 1752](#)).

Contact: Randal John Meyer,
ExecutiveDirector@GlobalCannabisCommerce.org



GACC Model U.S. Federal Legislation Section-by-Section Analysis

Section 1 is the short title.

Section 2 is the table of contents.

Section 101 treats cannabis like beer or similar substances with respect to the Controlled Substances Act and performs conforming amendments.

Section 102 provides an appropriation for an unspecified amount for highways safety studies related to driving under the influence of cannabis.

Section 103 provides an appropriation for an unspecified amount to fund research into effects of tetrahydrocannabinol (THC) on the human brain, the efficacy of medicinal cannabis as a treatment for specific diseases and conditions, and the identification of additional medical benefits and uses of cannabis.

Section 104 protects children from unethical and illegal advertising directed at persons under the age of 21 by authorizing the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury (TTB) to promulgate regulations on the subject.

Section 105 establishes a national cannabis consumption age of 21, with an exception for medical uses consistent with state law and qualified medical caregiver direction, such as with children with epilepsy.

Section 106 establishes the two-track regulatory framework for cannabis medical and adult-use. TTB is established as the primary regulator of adult-use cannabis. The Food and Drug Administration is given jurisdiction over the regulation of medical cannabis products, based on their labeling claims, and any cannabis-infused foods, with separate pathways for medical edibles and adult-use edibles within the FDA. Section 7 further provides for interstate trade comity, that is, any state-licensed cannabis business may engage in interstate adult-use trade for non-edible cannabis products provided compliance with the TTB regulations. It also transfer's the Drug Enforcement Administration's current authorities with respect to cannabis to the TTB.

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- Section 107 compels the Secretary of Agriculture to issue regulations regarding the farming of cannabis plants and applies the Hemp Farming Act of 2018 to cannabis.
- Section 108 protects the right of states that have not legalized cannabis to maintain their legal regimes and block interstate diversion into their black market. It legalizes interstate trade between states that have legalized cannabis, and requires the Alcohol, Tobacco, and Firearms Bureau (ATF) to develop and implement a track-and-trace system to ensure that cannabis merely traveling through states where it is illegal does not divert from its legal endpoint, such as with fireworks and alcohol traveling through dry counties.
- Section 109 makes available from the DEA's stock of research cannabis at the University of Mississippi Marijuana Research Facility available for baseline calibration testing for cannabis labs with federal uniformity.
- Section 110 provides an appropriation for an unspecified amount for state and local police units to be retrained with respect to the new cannabis laws and regulations.
- Section 111 regulates the importation and exportation of cannabis by providing for a federal permitting scheme, like that of alcohol, to engage in foreign cannabis commerce, and requires foreign cannabis quality and labeling to be of the same quality as domestic cannabis for the same commercial purpose.
- Section 112 establishes a federal excise tax on cannabis for an unspecified percentage to provide new revenues and offset the costs of implementing cannabis legalization.
- Section 113 is the "Cannabis Safety Act", which provides for a certification process similar to that in the Medical Gas Safety Act of 2012 to allow state-legal medical and edible cannabis products to avoid the unintended consequence of not having been part of the modern FDA system for 80 years. The Cannabis Safety Act also removes the dire threat of the FDA's outdated and unworkable preclusion rules by exempting cannabis from drug preclusion, and food additive/supplement preclusion to allow for adult and medical edible markets to continue to thrive.
- Section 114 repatriates cannabis business funds and directs the Attorney General to review all federal cannabis convictions and provide a recommendation to the President as to reprieve or pardon.
- Section 115 provides for restitution for American communities adversely affected by cannabis enforcement by providing for a grants program for expungement of cannabis conviction records, by creating a Cannabis Opportunity Trust Fund funded by 20% of the excise tax revenues, and by requiring the Comptroller General to perform a diversity and inclusion study.

Section 116 requires the Comptroller General to perform a study of all federal laws and regulations to determine if any changes in policy are desirable in light of this Act, to report not more than two years after the passage of this Act.

Section 117 authorizes the President to send trade delegations, established as U.S. policy the objective to remove unjustifiable foreign barriers to international cannabis commerce, and clarifies that Congress retains the power to alter any particular substance's control-scheduling, regardless of international treaty.

Section 118 changes all references to "marijuana" or "marihuana" in federal documents to "cannabis."

Section 201 is the Financial Institution Consumer Protection Act of 2019, which prevents federal banking regulators from performing actions similar to those of Operation Chokepoint against disfavored businesses.



San Francisco Chronicle

Feds must join California in getting #weedwise on black market

By Randal John Meyer July 2, 2019

California recently rolled out its "Get #weedwise" campaign in an effort to stamp out black-market cannabis products in the state. The campaign is an important measure to support the California industry, but the state should be looking elsewhere for sustainable and long-term solutions to this issue: the federal government. The black market can grow for only one reason — the current federal prohibition on interstate cannabis trade. It is an inescapable consequence of supply and demand.

California maintains some of the highest standards in the world for cannabis product purity to ensure patient and adult users are getting safe and known products; people should not have to worry about ingesting hard metals and dangerous pesticides. These regulations are a cost of doing business, along with paying significant taxes to support the state's regulatory regime — a cost the black market does not bear.

Unlike all other state-licensed business (including the wine industry), California's cannabis industry cannot ship products across state lines or approach new markets solely because of the federal prohibition. That reduces the California industry's potential U.S. market from roughly 220 million adults to roughly 25 million adults in California only.

Importantly, it means that businesses cannot reduce prices by scaling up the production of cannabis and reaching a larger volume of the consuming population. This gap in federal law forces legal businesses to compete with black-market operators, which have the unfair advantages of both lower overhead costs per unit and a significantly larger market through their disregard of federal interstate commerce laws. Illegal producers' costs and prices are largely fixed by their illicit nature; they cannot build large, sustainable farms to reduce per-unit costs because of the inherently unstable nature of their business. Legal businesses in the United States, aided by the protections of the commerce clause, can easily compete with and replace the black market if given the chance. Federal law can easily be changed to reach this goal.

Changing federal interstate commerce laws on cannabis would also give state-legal businesses an advantage over black-market producers in terms of banking access. Current federal law treats legal and illegal businesses as one and the same. But for businesses to raise the capital they need to eliminate the black market, the laws need to allow the financial sector to "touch the plant." As Dan Stipano recently told *American Banker*, "Anything short of legalization on the federal level will probably not be enough. ... Financial institutions are caught in the middle."



Thus, while California gets #weedwise, outdated federal laws that continue to designate cannabis in the Controlled Substances Act effectively encourage growth of the black market by ensuring state-legal businesses cannot compete with it. Congress can solve this problem by exercising its commerce clause powers to *allow* the interstate trade in cannabis products between legal states rather than *preventing* it.

It is time for California's federal delegation to take the lead in correcting this legal conundrum and unify behind interstate cannabis trade. No one disagrees that this business will provide an incredible economic boon to those allowed to engage in it and that the current situation is utterly untenable. For a change, Congress can do something positive that meets all of these goals rather than being a barrier to California's businesses and their employees.

Randal John Meyer is executive director of the Global Alliance for Cannabis Commerce. He previously served as legislative counsel to U.S. Senator Rand Paul, R-Ky, specializing in judiciary issues such as cannabis legalization and criminal justice reform.



On behalf of the more 52,000 community bank locations across the nation represented by ICBA, we thank Chairman Crapo, Ranking Member Brown, and members of the Banking Committee for convening today's hearing on "Challenges for Cannabis and Banking: Outside Perspectives." We are pleased to submit this statement for the record which provides the perspective of thousands of community banks that operate in the 33 states that have legalized cannabis in various forms and for various purposes.

The current conflict between state and federal law has created a cloud of legal uncertainty for community banks, inhibited access to the banking system for cannabis-related businesses (CRBs) and created a serious public safety concern. ICBA urges this committee to consider legislation that would create a federal safe harbor for banks that offer direct or indirect services to CRBs that comply with state law. The SAFE Banking Act, sponsored by Senators Merkley and Gardner, would create such a safe harbor.

At the outset, we wish to clarify that ICBA's support for a safe harbor must not be interpreted as support for legalization of cannabis for medical, therapeutic, or recreational use. ICBA makes no moral or scientific judgments with regard to cannabis use.

Cannabis Banking Too Risky for Overwhelming Majority of Community Banks

CRBs licensed in the states that have legalized cannabis today remain illegal under the federal Controlled Substances Act, which puts cannabis in the same category as heroin and LSD. All community banks, including those that are state chartered, are regulated, supervised, and examined by federal bank regulators, the Federal Deposit Insurance Corporation (FDIC) or the Federal Reserve. Based on long experience with examiners, bankers fear they will be highly critical of loans to businesses that are illegal under federal law. An examiner could, for example, reduce the balance sheet value of a sound and performing loan, forcing the bank to raise capital, or even pressure the bank to terminate the relationship. The legal stakes are simply too high for most community bank management and boards to tolerate.

Risk Goes Beyond Direct Cannabis Lending

For community bankers, the risk extends beyond *direct* cannabis businesses – the licensed growers, processors, and retailers. Any vendor of a direct CRB is an indirect CRB and also presents a risk to its banks. This could include even plumbers, internet service providers, or bookkeepers that offer their services to the broader public and whose customer base, knowingly or unknowingly, includes cannabis-related businesses. Many banks may not know that they are implicated with cannabis. The problem extends to consumer lending. Employees of cannabis-related businesses are paid from the sale of cannabis, illegal proceeds under federal law and technically subject to a superior federal lien. This means that a bank cannot rely on the employee's salary to underwrite consumer debt.

The SAFE Banking Act of 2019

In sum community banks in states that have legalized cannabis face a legal and compliance quagmire. While a small number of institutions have chosen to assume the risk of serving cannabis-related businesses, the industry remains cash intensive and a target for armed robbery. This is the most urgent aspect of limited access to banking services for cannabis-related businesses.

The solution is an effective, statutory safe harbor such as that embodied in the SAFE Banking Act. Among other provisions, the Act would:



- Prohibit federal banking regulators from taking certain actions against a depository institution that provides financial services to cannabis-related legitimate businesses. These include threatening or limiting a bank's deposit insurance, downgrade a loan, prohibit or discourage the provision of banking services, or take any other prejudicial action solely because a bank customer is a CRB.
- Provide protection from liability under any federal law for providing financial services to cannabis-related legitimate businesses and from forfeiture of collateral for loans to such businesses or to owners of real estate or equipment leased to cannabis-related legitimate businesses.
- Clarify that the SAFE Act does not impose a new obligation to provide financial services to cannabis-related legitimate businesses.
- Amend the BSA to require financial institutions to comply with guidance issued by FinCEN when filing suspicious activity reports (SARs) related to cannabis-related legitimate businesses.

Public Banking is Not a Viable Solution

With an effective safe harbor, America's community banks have ample capacity and willingness to serve all facets of the legal cannabis-related industry, should they choose to.

I urge this committee not to consider various forms of public banking as a viable solution to the banking access problem. The California State Treasurer's Office recently commissioned a study of the feasibility of establishing a state bank in California to serve the cannabis industry.¹ That study, conducted by Level 4 Ventures, Inc., a business analytics firm specializing in cost modeling, was released in December 2018. The study found that such a bank would not be viable because it would be too costly to capitalize and would not return a profit for at least 30 years. The study states that: "Our conclusion is that no option for a public bank focused on the cannabis industry is feasible."

ICBA concurs with the conclusion of this independent study. It is worth noting that then-California Treasurer John Chiang, Ms. Ma's predecessor, had previously suggested the creation of a public bank, so the report's conclusions were not predetermined by its sponsorship. Following the release of the report, Chiang said, "While today's announcement [on the infeasibility of providing a California public bank to service the cannabis industry] may not lay out the path some of us had hoped, it did reinforce the inconvenient reality that a definitive solution will remain elusive until the federal government takes action."

Beyond the question of viability, community bankers are rightly concerned that once established, a special purpose cannabis bank would expand beyond its original scope and compete directly with community banks and other private sector competitors. We've seen this time and again with the creation of limited purpose financial institutions.

¹ <https://www.treasurer.ca.gov/comm-external-urls/cannabis-feasibility-full-report.pdf>. See also: Laura Alix. "Public Bank Isn't the Answer for California's Pot Industry: Report." *American Banker*, December 28, 2018. <https://www.americanbanker.com/news/public-bank-isnt-the-answer-for-californias-marijuana-industry-report>.



Conclusion

Thank you again for convening this hearing and raising the profile of a critical issue in the states that have legalized cannabis. If a solution is not found, the problems I have described in this statement will only become more urgent in the coming years. ICBA hopes to work with this committee to advance the SAFE Banking Act of 2019 to create a statutory safe harbor so that banks are free to serve the growing cannabis industry, should they choose to do so, without fear of legal and regulatory repercussion.



Dear Senator,

7/19/2019

MVA is dedicated to supporting victims harmed by the marijuana industry and the normalization and promotion of the marijuana culture. We inform the public, government officials and legislators of the personal damage that marijuana causes.

PROMOTING THE MARIJUANA INDUSTRY BY PASSING the Safe Banking S.1200 and H.R. 1595 WILL CAUSE MORE DRUGGED DRIVING VICTIMS.

Marijuana significantly impairs driving ability including time and distance estimation and reaction times and motor coordination.

[1] The National Highway Traffic Safety Administration lists marijuana as the most prevalent drug in fatally injured drivers with 28% testing positive for marijuana.

NHTSA, Use of Controlled Substances and Highway Safety; A Report to Congress (U.S. Dept. of Transportation, Washington, D.C., 1988)

[2] The crash risk for a driver drunk on alcohol is higher than a driver on marijuana, but to suggest it is safe to drive after using marijuana is irresponsible. An even greater danger is the combination of alcohol and marijuana that has severe psychomotor effects that impair driving ability.

<http://cesar.umd.edu/cesar/cesarfax/vol19/19-49.pdf>

[3] What about our kids? Vehicle crashes are the leading cause of death among those aged 16-25.

https://www.cdc.gov/mmwr/preview/mmwrhtml/mm5448a1.htm?s_cid=mm5448a1_w

[4] Weekend nighttime driving under the influence of marijuana among young drivers has increased by 48%.
Ibid.

[5] About 13% of high school seniors said they drove after using marijuana while only 10 % drove after having five or more drinks.
Ibid.

[6] Another study showed about 28,000 seniors each year admitted to being in at least one motor vehicle accident after using marijuana.

<https://archives.drugabuse.gov/news-events/news-releases/drug-impaired-driving-by-youth-remains-seriousproblem>

[7] The marijuana industry is backing legalization. Do we want more dangerous drivers on our roads so they can make money from selling marijuana?

"Unsafe Driving by High School Seniors: National Trends from 1976 to 2001 in Tickets and Accidents After Use of Alcohol, Marijuana and Other Illegal Drugs." Journal of Studies on Alcohol. May 2003

By: David G. Evans, Esq. I managed the New Jersey Intoxicated Driving Program that included drugged drivers.

Thank you for your consideration,

Sally Schindel, Marijuana Victims Alliance

MVA Marijuana Victims Alliance
MVAA.info MVAAliance@gmail.com

Page 1 Of 2

A MARIJUANA RELATED FATAL CRASH

It's criminal to legalize THC marijuana, a powerful and addictive drug, that is killing our youth in so many ways. The death of my innocent 22-year-old daughter is another tragic example.

My daughter Jennifer Corinne Hrobuchak was vibrant, intelligent, and driven to be a productive and meaningful member of our society. She was tall, had the most beautiful hair and the brightest smile, with green eyes to match. Jen played lacrosse well and earned a college scholarship to a small school in Northern Ohio where she blossomed into an incredible woman.

She graduated with honors in May of 2012 with a degree in Intelligence and Analysis Research. She now spoke Spanish and Arabic fluently and could translate both languages, which in the world of today is critical in her field. My heart swelled with pride as she accepted her diploma and glided across the stage. Her goal was to work for the FBI or another intelligence organization. Her work as an intern for HIDTA (High Intensity Drug Trafficking of Ohio) earned her a plaque stating she made outstanding contributions to the program.

After a cruise with a friend to celebrate her years of hard work, she began a new job. Not more than a couple of weeks into training, one of the store managers she oversaw called her at about 12:30 a.m. to say there was an alarm going off in her store. She asked Jennifer to meet her at the store, and my daughter, being the responsible person she was, got up, got dressed, and made her way to the location in her new Camry, given to her as one of the perks.

As she crossed an intersection not far from her home, a man came racing through the intersection at 82mph, speeding through the red light. He slammed into the side of my daughter's car, sending it over the embankment and straight into the front wall of a Lube Stop building, collapsing it on Jennifer's car.

Jennifer passed away at the scene from the severe injuries she sustained. The 26-year-old man who caused her death was not injured. He was high on "medical marijuana" given to him in his home state of Michigan. He was just passing through our state and decided he would break every law and kill my daughter.

After he took a plea and his charges were severely reduced to a felony 3, he spent a total of only 15 months in prison. This man had several previous intoxicated driving charges and run-ins with the law. He admitted he was smoking marijuana before the crash, and there was marijuana in the car. His life goes on with a slap on the wrist and our life is devastated forever. He obtained this marijuana legally which is another slap in the face for our family.

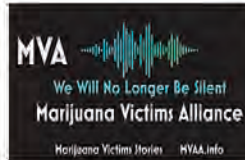
Every day of my life is difficult now. I see all of my daughter's friends getting married and starting their families. These events were taken away from Jennifer and our family. The pain I live with is so intense that, as I write this account, tears of sadness and pain run down my cheeks. The world has lost a beautiful woman and one who would have made a difference.

My mission is to tell the account of what took her incredible life away so that others become aware of the dangers on our roads. It's criminal to legalize this powerful and addictive drug that is killing our youth in so many ways. We need to wake up to what this is really about and become aware of how we are just pawns in the game plan of the marijuana

By Jennifer's Mom, Corrine Gasper Ohio

corinne.lamarca@gmail.com





Dear Legislator,

7/19/2019

MVA is dedicated to supporting victims harmed by the marijuana industry and the normalization and promotion of the marijuana culture. We inform the public, government officials and legislators of the personal damage that marijuana causes.

SAFE Banking is S.1200 and H.R. 1595 WILL PROMOTE THE PREDATORY MARIJUANA INDUSTRY and WILL CAUSE MORE MENTAL ILLNESS INCLUDING PSYCHIATRIC DISORDERS AND SUICIDES.

Marijuana use can cause impairment of memory, attention, motor skills, reaction time, and the integration of complex information and impaired cognition and other neurological damage. [1]

The American Psychiatric Association reports that current evidence supports, at a minimum, a strong association of marijuana use with the onset of psychiatric disorders. "Adolescents are particularly vulnerable to harm, given the effects of cannabis on neurological development." [2]

The National Institute on Drug Abuse (NIDA) research shows that marijuana use is linked with depression, anxiety, and suicidal thoughts among teens. [3]

In 2017, the National Academy of Sciences (NAS) landmark report written by top scientists concluded after a review of over 10,000 peer-reviewed academic articles, that marijuana use is connected to mental health issues such as psychosis, social anxiety, and thoughts of suicide and learning, memory, and attention loss (possibly permanent in some cases). [4]

A new study shows that young people with marijuana dependence have altered brain function that may be the source of emotional disturbances and increased psychosis risk that are associated with marijuana abuse. The alterations were most pronounced in people who started using marijuana at a young age. The findings reveal potential negative long-term effects of heavy cannabis use on brain function and behavior. [5]

References

- [1] Abbie Crites-Leoni, Medicinal Use of Marijuana: Is the Debate a Smoke Screen for Movement Toward Legalization? 19 J. Legal Med. 273, 280 (1998) (citing Schwartz, et al., Short-Term Memory Impairment in Cannabis-Dependent Adolescents, 143 Am. J. Dis. Child. 1214 (1989)).
- [2] American Psychiatric Association, 2013 "Position Statement on Marijuana as Medicine," paragraph 1 found at: <https://www.psychiatry.org/home/policy-finder>
- [3] <https://www.drugabuse.gov/publications/drugfacts/marijuana-August-2017>
- [4] Health Effects of Cannabis and Cannabinoids: Current State of Evidence and Recommendations for Research. See: <http://nationalacademies.org/hmd/-/media/Files/Report%20Files/2017/Cannabis-Health-Effects/Cannabis-chapter-highlights.pdf>
- [5] <https://www.news-medical.net/news/20180116/Study-reveals-negative-long-term-effects-of-heavy-cannabis-use-on-brain-function-and-behavior.aspx> 3/2018



My son is a marijuana victim. Marijuana killed his soul and ruined his brain. His suicide note makes that very clear.

Andy Zorn was a happy, resourceful kid with big dreams. He realized some of them, working and saving and planning his future. He served in the U.S. Army as a paratrooper with 82nd Airborne. He earned an AA degree at community college after his discharge in 2004.

But Andy had experimented with marijuana and alcohol at age 14. Perhaps that is when a foundation was laid for his not being tolerant of the substance as an adult. By age 25 he was exhibiting signs of psychosis and fearing suicide.

The six years that followed were a nightmare of calls to suicide help lines resulting in involuntary stays in county behavioral health hospitals, court ordered mental health treatment, loss of his right to own a weapon due to the danger he was to himself. He lost his ability to hold a job, continue in school, to keep his home.

The Veterans Administration had also treated him and of course suspected PTSD but Andy never agreed with that. He had no symptoms of PTSD, mainly just severe depression and the diagnosed Severe Cannabis Use Disorder.

Andy was arrested in Arizona for marijuana possession, one of the best things that happened to him in those years because it afforded him the incentive to be clean and sober in a court diversion program that opened a window in his addicted mind and allowed him a shot at recovery and re-entry into a productive life. He reconnected with family and friends he had isolated from in his addiction.

Sadly though, when the drug testing stopped, the marijuana addiction took him right back. Andy easily obtained an Arizona medical marijuana card, claiming pain in a leg that had once been broken. That afforded him access to a regular supply of potent product that owned his mind.

I spoke with the marijuana dispensary manager about Andy's death and his severe addiction. I did that with the hope she would help the next person like Andy recognize the harms and risks of the product. But she said she would not because it is not addictive, and Andy must have been using another substance. Andy was not. His toxicology report proves that.

As long as this marijuana industry is allowed to operate in this reckless way, there will be more marijuana victims. I offer Andy's Story with the dream that his words in his suicide note will resonate with someone who cares enough to help save the next victims. Marijuana killed his soul plus ruined his brain.

Please help stop this insane rush to build this industry marketing a harmful and risky substance, promoting its use, misleading young people into believing it is harmless. We victims are being left in its wake.

I will only get worse. My soul is already dead. Marijuana killed my soul & ruined my brain. I am doing everyone a favor.



**Thank you for your consideration,
Sally Schindel, Andy's Mom, Arizona**

MVA Marijuana Victims Alliance
MVAA.info MVAAlliance@gmail.com



The Honorable Michael Crapo
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing and Urban Affairs
United States Senate

Dear Chairman Crapo and Ranking Member Brown,

I am writing on behalf of the Insurance Coalition, a group of companies that take a common interest in federal involvement in insurance regulation. I write regarding the Committee's hearing on "*Challenges for Cannabis and Banking: Outside Perspectives*." Thank you for your leadership in exploring the implications for the banking sector of emerging decriminalization statutes in various states.

We also encourage the Committee to take a broad look at how the issue affects all financial services companies, including insurers. The issues presented by inconsistencies between state and federal law affect insurers as well as banks, and we are eager to be a resource and provide our perspective on the topic. Insurers, including both property and casualty and life insurers, are subject to certain reporting obligations under current federal anti-money laundering law. Similar to the issues confronting banks, these conflicts affect our operations and our customers.

As you know, there are several proposals pending in Congress to address harmonization between state and federal law, including legislation such as the Clarifying Law Around Insurance of Marijuana Act, or CLAIM Act. We support Congress addressing the issue generally, and also support insurance being explicitly addressed in any federal legislation, including legislation before your Committee.

Thank you for your leadership on this important issue, and we look forward to working with you and your colleagues as legislation moves forward.

Sincerely,

Bridget Hagan
Executive Director
The Insurance Coalition



3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

July 22, 2019

The Honorable Michael Crapo
Chairman
Committee on Banking, Housing,
& Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing,
& Urban Affairs
United States Senate
Washington, DC 20510

RE: Tomorrow's Hearing: "Challenges for Cannabis and Banking: Outside Perspectives"

Dear Chairman Crapo and Ranking Member Brown:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's Committee hearing on access to banking services for cannabis-related businesses, also known as marijuana-related businesses (MRBs). NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 117 million consumers with personal and small business financial service products. NAFCU and our members appreciate the Committee's focus on this important and challenging topic.

As the Committee is aware, the vast majority of states have authorized varying degrees of marijuana use, ranging from limited medical use to decriminalization and recreational use at the state level. NAFCU has heard from a number of our member credit unions that their members, or potential members, that have a small business in, or serving, the legal cannabis industry in their state are approaching them to seek banking services for their small businesses.

As the cultivation, sale, distribution and possession of marijuana remains illegal at the federal level under Schedule I of the *Controlled Substances Act*, almost all credit unions remain hesitant to provide financial services to these members and their small businesses. While the 2013 memo from U.S. Deputy Attorney General James M. Cole ("Cole Memo") and the 2014 guidance from the Financial Crimes Enforcement Network (FinCEN) have attempted to provide clarity to financial institutions, uncertainty remains for financial institutions in this area. Guidance can be rescinded at any time and in fact, former Attorney General Jeff Sessions took action in 2018 to essentially rescind the "Cole Memo." For financial institutions, such as credit unions, there are additional regulatory challenges that compound the uncertainty of providing financial services to state-authorized MRBs. These go beyond just concerns about criminal or civil penalties, but also extend to: requirements related to proper Suspicious Activity Report (SAR) and Anti-Money Laundering (AML) filings as required under the *Bank Secrecy Act*; access to federal deposit insurance and a Federal Reserve master account; and even potential issues with the Internal Revenue Service (IRS). Missteps in these areas could prove devastating to an institution. It should be noted that these risks also exist when providing financial services to ancillary businesses that

provide products and services to MRBs and fall within the credit union's field of membership, even if the state-authorized MRB does not.

NAFCU does not have, and is not taking, a position on the broader question of the legalization or decriminalization of marijuana at any degree at the federal or state level. However, we do support Congress examining what legislative steps can be taken to provide greater clarity and legal certainty at the federal level for credit unions that choose to provide financial services to state-authorized MRBs and ancillary businesses that may serve those businesses in states where such activity is legal. While not a total solution, a strong safe-harbor for financial institutions that wish to serve such businesses would be one step towards improving clarity and addressing what is often perceived as misalignment between federal and state laws. We urge the Committee to use this hearing to examine legislation such as the *Secure and Fair Enforcement of Banking Act* and the *STATES Act* and how they will address these concerns.

Thank you for your attention to this important issue. We look forward to continuing to work with the Committee on this and other issues of importance to credit unions. Should you have any questions or require any additional information, please contact me or Max Virkus, NAFCU's Associate Director of Legislative Affairs, at (703) 842-2261 or mvirkus@nafcuh.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Thaler", with a stylized flourish at the end.

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Senate Banking Committee

Ricker, Cameron (Banking)

From: Karen Ellis Bailey <ocalasbesthones@aol.com>
Sent: Monday, July 22, 2019 3:16 PM
To: Fuchs, Catherine (Banking)
Subject: Marijuana
Attachments: photo.jpeg

Dear Ms. Fuchs,

My name is Karen Bailey and I'm from Ocala, FL. I have lost my two and only children to addiction. Marijuana was their gateway drug and their relapse drug. Following is a text my daughter sent to someone shortly before her suicide.

She was a straight A IB student with hopes of becoming a dentist one day. My husband owns a thriving practice and we wanted to pass ownership onto her when she finished dental school. I was looking at one of her essays last week and she actually wrote that if a drug is legal, then it is safe. Our youth across this country think of marijuana as a safe drug.

When you change the brain, you change the heart. I believe we are witnessing a changed heart and a changed country due to the ills of marijuana and the irreversible damage it has done to our youngest generations. There wasn't a plan in place to educate the children first about marijuana and this will prove to be one of our country's biggest mistakes.

My daughter left behind a 4 yr. old little boy. One night before his bedtime prayers he has said, "Tell Jesus that my mommy is looking for me and she can't find me."

It is irresponsible to move forward with a drug when money is the motivating factor. Please do what is in the best interest of America's children. Thank you for your time. It is appreciated.

Sincerely,

Karen Bailey

Sent from AOL Mobile Mail
 Get the new AOL app: mail-mobile.aol.com



Are you a smoker?

ally

I like weed. I swear it makes me a better mother, makes me more attentive, it just helps. It especially helps with anxiety too... And besides, it's all natural ;)

**Corey
&
Alyssa**



Statement of the
American Property Casualty Insurance Association (APCIA)
Challenges for Cannabis and Banking: Outside Perspectives

United States Senate
Committee on Banking, Housing, and Urban Affairs
July 23, 2019

INTRODUCTION

The American Property Casualty Insurance Association (APCIA) commends Chairman Mike Crapo and Ranking Member Sherrod Brown for holding this hearing entitled, "Challenges for Cannabis and Banking: Outside Perspectives."

Representing nearly 60 percent of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

The following comments do not seek to promote views for or against the legalization of marijuana. However, to the extent that states decide to make marijuana "state legal", APCIA supports full consideration of a broad range of necessary regulatory and enforcement standards and a resolution of the direct conflict between state and federal law on the legality of providing financial services, including insurance, to marijuana related business and activities. Specifically, APCIA supports adoption of comprehensive marijuana standards, including adoption of a federal safe harbor allowing voluntary coverage of state legal marijuana related activities as well as a number of other essential policy elements discussed in our testimony.

BACKGROUND

Thirty-three states and the District of Columbia have approved medicinal marijuana, twelve of which have also approved recreational use. These state laws conflict with federal law, which

classifies marijuana as an illegal drug with no currently accepted medical use and a high potential for abuse.

Insurers are experiencing continued increase in collision frequency and marijuana-impaired driving is one of the many factors believed to be contributing to the high number of motor vehicle crashes and deaths. At the same time, in this “state legal” environment, insurers are being asked—and in some states required—to provide reimbursement for medical marijuana and insurance coverage for marijuana-related commercial activities or even routine losses that may involve marijuana. Additionally, surety exposures are increasing because of state requirements for individuals or entities to maintain license bonds, tax bonds and even fidelity bonds. In this regard, insurers, including sureties, are like other financial services sector participants, such as banks, who are seeing increased demand for services or may be unwittingly handling transactions that may implicate marijuana directly or indirectly.

In fact, claims have been asserted against insurers for marijuana-related losses on property insurance policies in a number of states. See for examples—*Tracy v. USAA Cos. Ins. Co.* (D. HI 2012); *Green Earth Wellness Center v. Atain Specialty Ins.* (D. CO. 2016); *KVG Properties, Inc. v. Westfield Ins. Co.*, (6th Cir. 2018). At least one state Supreme Court has obligated insurers to cover medical marijuana under workers’ compensation insurance.¹ At the same time, in California insurers are now exposed to even greater demand for products and services because of regulatory requirements adopted on January 16, 2019.²

Finally, and perhaps most importantly, property casualty insurers are state regulated. We have state-based rate, form and underwriting regulation and state claims practice laws. This element can place even more emphasis on the “state legal” aspects of marijuana for our industry, and particularly when one considers that widely adopted and uniform state claims practice laws obligate insurers to make speedy claims decisions and payments.

Whether seeking to write marijuana business based on state law or under compulsion from litigation or otherwise, insurers are potentially exposed to liability arising from differences between state and federal legal systems.

LEGISLATIVE LANGUAGE ELIMINATING A CATCH 22 FOR INSURERS

Like businesses in any other industry, a cannabis-related business (CRLB) requires commercial general liability, property, directors and officers, professional liability, and other coverages. However, a CRLB may not have access to the same number of insurers, the same selection of policies, or the same limits as other non-cannabis-related businesses. One reason for that

¹ *Viola v. Ben's Automotive Services*, 331 P.3d 975 (Ct. App. 2014), *cert denied*, 331 P.3d 924 (2014).

² See *Bureau of Cannabis Control*, Tit. 16 California Code of Regulations Div. 42, § 5008 (Licensee Bond), § 5308 (insurance requirements for distributors), § 5312 (insurance for cannabis transport) at <https://cannabis.ca.gov/wp-content/uploads/sites/13/2019/01/Order-of-Adoption-Clean-Version-of-Text.pdf>

discrepancy is that cannabis remains illegal under U.S. federal law. However, pending federal legislation, if passed, takes a step in the right direction to alleviate this dilemma, but still has its own limitations with regard to the insurance industry.

In March of this year, Congressman Perlmutter introduced the H.R. 1595, the Secure and Fair Enforcement (SAFE) Banking Act of 2019. The legislation would provide a safe harbor for depository banks to provide banking and lending services to CRLBs in states that have legalized marijuana in some form. Unfortunately, however, as drafted the bill does not provide protection for insurers or our consumers. In late March, the House Financial Services Committee marked-up H.R. 1595, the SAFE Banking Act. The bill included an amendment by Rep. Steve Stivers (R-OH) that expanded to insurers a safe harbor to provide financial services directly to CRLBs in states that have legalized marijuana in some form.

While the SAFE Act as it was amended is an important step toward legal certainty for consumers and the insurance industry, it does not go far enough. Unfortunately, the SAFE Act does not provide protection for those insurers providing financial services related to indirect exposures; those falling outside of CRLBs. The question is simple: If a policyholder has legal marijuana—or is growing it within state-mandated limits—and it's damaged in a fire or stolen from the property, will a homeowner's insurance policy cover the loss? The answer is not so straightforward.

To avoid the legal limbo that insurers find themselves in because of inconsistent state and federal legality, we are asking that Congress support and pass Senator Menendez (D-NJ) and Senator Paul (R-KY)'s anticipated legislation the "Clarifying Law Around Insurance of Marijuana Act" or the "CLAIM Act." This legislation recognizes the legal limbo that the insurance industry faces and resolves it by providing a comprehensive federal safe harbor for insurers. The bill's safe harbor provisions would prevent federal criminal prosecution of insurers that transact with consumers, and it would prevent civil liability for agents, brokers, and insurers, their officers, directors or employees. By resolving the legal uncertainty presented by the dueling state and federal treatment of marijuana, the insurance industry can serve both CRLBs and other commercial lines consumers, as well as personal lines consumers who may have a direct or indirect relationship to state-legalized cannabis, and still be in compliance with the law.

Further, the CLAIM Act will enable those engaged in the business of insurance to be able to comply with a variety of state statutory and regulatory requirements. Importantly, this legislation would help consumers, with direct or indirect contact with state-legalized cannabis, access insurance products and services and the protections they provide.

The CLAIM Act is a comprehensive solution to provide legal certainty for our market while also preserving the states' traditional role in regulating the business of insurance. Under the bill, insurers must still satisfy all applicable state statutory or regulatory requirements, such as those pertaining to consumer protections and claims payments.

However, this is not to say all insurers, including surety bond writers, want to write this business. There are some who will, and some who will not. Neither group believes they should be forced to write the business for a variety of reasons that we examine further below.

IMPORTANT PUBLIC POLICY CONSIDERATIONS MUST INFORM EXAMINATION OF MARIJUANA

In addition to addressing the potential legal jeopardy that the financial sector faces because of the federal treatment of marijuana, there are important policy considerations regarding marijuana that we wish to share with the committee. We urge the committee, and indeed all policymakers, to weigh the following recommendations carefully as they consider legislation related to marijuana.

1. Marijuana Impairment Standard

It is indisputable that marijuana is an intoxicant and impairs those who use it. Marijuana use can slow reaction times and interfere with coordination, perception, judgment, and other critical abilities necessary for safe driving or functioning in the workplace. As more states legalize marijuana, it is inevitable that there are more people driving or working under its influence.

The Highway Loss Data Institute found that collision claim frequency in Colorado, Nevada, Oregon, and Washington, all of which legalized marijuana for recreational use, was six percent higher than their neighboring states.³ In Colorado, the Rocky Mountain High Intensity Drug Trafficking Area's Strategic Intelligence Unit released a report that found traffic deaths involving drivers who tested positive for marijuana more than doubled following the legalization of recreational marijuana.⁴ Nonetheless, the science behind, and awareness of, the risks associated with marijuana have received little mainstream attention.

Regardless of whether one supports or opposes legalizing marijuana, we can all agree on the importance of preventing marijuana impairment on our roads and in the workplace. Unfortunately, there is no standard or reliable methodology to determine marijuana impairment similar to how we detect alcohol impairment. When testing for alcohol impairment there is a clear correlation between the amount of alcohol in the blood and a level of impairment. Detecting marijuana impairment through a standardized test is more complicated.

Marijuana is metabolized by the body differently from alcohol. The level of THC (tetrahydrocannabinol), the psychoactive ingredient of marijuana, in the body can vary based on several factors, including how marijuana is ingested and the potency of the product. The

³ *Crashes rise in first states to begin legalized retail sales of recreational marijuana*, IHS News, October 18, 2018 at <https://www.ihs.org/ihs/news/desktopnews/crashes-rise-in-first-states-to-begin-legalized-retail-sales-of-recreational-marijuana>

⁴ *The Legalization of Marijuana in Colorado: The Impact Volume 5, Update*, Rocky Mountain High Intensity Drug Trafficking Area, September 2018

level of THC can drop before a user experiences impairment, but traces of THC may still be found in the body weeks after using marijuana. This means that a positive test result for the presence of marijuana in someone's system does not necessarily mean he or she is impaired. In its March 2019 report, Michigan's Impaired Driving Safety Commission noted that blood-plasma concentrations are indicative of marijuana exposure but not a reliable indicator of impairment.⁵

In 2017, the National Highway Transportation Safety Administration (NHTSA) released a study on the effects of marijuana-impaired driving and reported that no reliable threshold or measurement methodology currently exists. NHTSA concluded that, until there is a scientific standard of impairment, the best test for marijuana impairment is an officer with advanced training in this area.⁶ While APCIA supports enhanced law enforcement training to identify marijuana impairment to protect our roadways, research to develop an objective impairment standard and a reliable testing method needs to be a priority.

Few federal studies have evaluated the effect of marijuana use on driver and worker performance. Government agencies face difficulties in developing marijuana impairment standards or determining medical efficacy because of federal prohibitions and specific requirements that must be met to use marijuana in studies due to its status as a controlled substance under federal law and many state laws. The difficulties in conducting this research will hopefully be addressed in the near future with the introduction of legislation by Congressman Blumenauer (D-OR). This legislation, H.R. 3797, proposes to amend the Controlled Substances Act to make marijuana accessible for use by qualified marijuana researchers for medical purposes. APCIA supports increased marijuana research and looks forward to working with Representative Blumenauer (D-OR) to advance this key issue.

Another factor complicating studies of marijuana's effects on drivers is that the potency of THC in marijuana (i.e., the concentration of THC) can vary from one plant to another. The marijuana produced by the only approved source of marijuana for federally funded research is considered by some researchers to be low quality (potency). Also, the way in which marijuana is processed can affect the potency of the product, and the way the user chooses to ingest marijuana may affect the level of THC in the body.

Research is being pursued at the state level. One promising study taking place in Colorado tests the blood of subjects smoking marijuana to measure the ratio of active and inactive cannabinoid metabolites. This indicates how recently marijuana has been used and how much a subject has used over time. Researchers see both measurements as indicators of impairment. The more recently marijuana has been used, the more impaired a subject is likely to be, but the more marijuana someone has used over time can create a tolerance which would make the

⁵ Report from the Impaired Driving Safety Commission, March 2019 at https://www.michigan.gov/documents/msp/Impaired_Driving_Report_650288_7.pdf

⁶ Marijuana-Impaired Driving: A Report to Congress, National Highway Transportation Safety Administration (July 2017) at www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812440-marijuana/Impaired-driving-report-to-congress.pdf.

subject less likely to be impaired. The expectation is that evaluating the ratio of active to inactive cannabinoid metabolites in a user's blood can approximate their impairment level.

Now is the time for Congress to address this deficiency by prioritizing the research and development of a marijuana impairment standard and enhanced law enforcement training. NHTSA itself recommended such a step in its July 2017 report to Congress, "Marijuana-Impaired Driving."

To address these critical lapses in our understanding of marijuana and its hazards, APCIA urges the Committee and Congress to:

- Support increased scientific research to develop objective marijuana impairment standards for auto and workplace safety and medical efficacy by allowing the Department of Transportation to fund highway safety research at the state level based on the laws of the respective states;
- Promote increased awareness and education for the public and policymakers on the dangers of marijuana-impaired driving or working; and
- Support efforts to gather better data on marijuana use among drivers involved in crashes and drivers arrested for impaired driving.

These are simple, common-sense needs to enhance our knowledge and understanding of marijuana and its risks, and to protect the roads, our workplaces and the public.

2. Adopt the Strongest Marijuana Safety Best Practices and Enforce Them

As with any intoxicant, marijuana impairment on the job or on the roads will harm people and property. Public policy for marijuana must be informed by both the harm that can be done when a person is impaired and the need to reduce that potential harm.

While there is universal support for both enforcing and reducing marijuana-impaired driving, the science of marijuana impairment is not yet sufficient to advance a testing regime akin to current standards for alcohol field sobriety. NHTSA is right—now we need well-trained law enforcement officers who can identify signs of impairment. But, that is not enough.

In workplace safety, unfortunately, we are seeing something of a retreat from established standards for employee sobriety and the ability of employers to act based on intoxication. Many states provide some type of employment protection for medical marijuana patients. In other states, employers are not allowed to take adverse action based on a positive drug test, while still other states specify that medical marijuana users are entitled to disability accommodations and protections under state disability laws. Massachusetts, which recently legalized recreational marijuana, is expected to consider further legislation this year to prohibit the termination of employees for using marijuana outside of work. The implications for allowing working-while-high are enormous.

While we, of course, understand that unimpaired employee protections may make sense under some circumstances, we strongly believe that employers must be empowered to protect their workplaces, employees and customers from obviously impaired employees.

We urge the committee and Congress to support the same kinds of standards for marijuana that we see with alcohol impairment on the roads and in the workplace:

- Support the strongest marijuana safety best practices from the states and Canada, some of which currently include:
 - a. Mandatory warning labels on marijuana products about driving and working while under the influence of marijuana;
 - b. 21 as the minimum age to purchase or consume marijuana; and
 - c. Zero tolerance for underage drivers to operate a vehicle with any evidence of marijuana consumption.
- Support strong law enforcement standards for marijuana safety, including law enforcement training; and
- Support employers' rights to a drug free workplace.

3. State Mandates on Property and Casualty Insurers Are Counter Productive

As the states embrace greater marijuana legalization, we have seen increasing demands for insurance products and services for marijuana activities and losses. The recent movement toward state legalization of marijuana first embraced legality for therapeutic or medical use. In turn, this resulted in the first state court finding that there is an obligation for workers' compensation insurance to cover treatment with marijuana in New Mexico.⁷ Of course, this is while marijuana remains illegal under federal law.

State marijuana mandates on our industry are wrong. First and foremost, marijuana continues to be illegal under federal law. In such an environment, any coverage mandate is counterproductive, as it may discourage the very capital formation local public policy decision makers want because it will inject greater legal uncertainty and conflict for insurers.

Secondly, given the already examined paucity of reliable knowledge, science and study on marijuana use, its efficacy as medicine can neither be confirmed nor safe dosing established. Moreover, necessary impairment standards cannot be established or enforced for the same reasons. A dedicated effort to increase scientific research to develop objective impairment standards for auto and workplace safety and medical efficacy is essential.

⁷ *Vialpando v. Ben's Automotive Services*, 331 P.3d 975 (Ct. App. 2014), *cert denied*, 331 P.3d 924 (2014). Other states have also found marijuana compensable under workers compensation including administrative law decisions in Connecticut (*Petrini v. Marcus Dairy, Inc.*, 6021 CRB-7-15-7 (May 12, 2016)), and New Jersey (*Watson and 84 Lumber* (unpublished)).

Finally, given the history of marijuana as illegal, insurers simply have little, if any, knowledge of it as an insurable risk. In the absence of experience, it would be virtually impossible to meet state coverage mandates.

For all these reasons, APCIA:

- Opposes insurer reimbursement mandates for medical marijuana and
- Opposes state marijuana coverage mandates on insurers.

To be clear, our intent is neither to support nor oppose marijuana legalization, but rather to avoid unintended or counterproductive consequences for our consumers and industry that could result in adverse outcomes for the very jurisdictions seeking to advance legalization. Moreover, if the legal uncertainty presented by the dueling state and federal treatment of marijuana could be resolved, that might allow for the more orderly development of products going forward if our industry is permitted to develop our understanding of this risk and science-based research on marijuana without burdensome mandates. Until then, state coverage mandates on our industry are premature.

CONCLUSION

APCIA appreciates the committee for holding this important hearing and seeking our input. We strongly urge the committee to resolve the legal predicament insurers currently face under competing state and federal laws. APCIA would be happy to answer any questions you may have and to engage with the committee, its members, staff, or other stakeholders.

Testimony of

Ernest Martinez

Director At Large of the National Narcotic Officers' Associations' Coalition (NNOAC)

July 19, 2019

My name is Ernest Martinez, and I serve as Director At Large of the National Narcotic Officers' Associations' Coalition (NNOAC). I have also been a Lieutenant in the Denver Police Department serving the citizens of Denver for over 33 years. I have served for 17 years as an undercover narcotics Detective and Detective-Sergeant, serving from Street-Level Enforcement Teams, (including the Denver-Aurora Crack Task Force), to the Elite Major Peddler Unit. I was the first task force supervisor with the Front Range Task Force of the Rocky Mountain HIDTA Enforcement Center, and was instrumental in its design and development. Prior to the Denver Police Department, I was a member of the Denver Sheriffs Department for 3 years as a Deputy Sheriff, with a total of 36 years wearing the badge for the City and County of Denver.

I am writing to submit testimony to the Committee on the SAFE Banking Act of 2019.

Section 1 (b) of the SAFE Banking Act states, "The purpose of the Act is to increase public safety by ensuring access to financial services to cannabis-related legitimate businesses and service providers and reducing the amount of cash at such businesses."

Through my experience in Colorado law enforcement, I have found that the burglaries and robberies are not primarily due to the availability of large amounts of cash on hand but the amount of marijuana in the business. High-potency marijuana, and particularly concentrates, are extremely valuable for resale on the black market. Licensed marijuana businesses are required to notify the Colorado Marijuana Enforcement Division (MED) and local law enforcement any time there is a burglary or robbery. The majority of the reported cases are for loss of product. Surveillance cameras with DVR recorders cover all areas of the marijuana business and operate 24/7. Recordings are required to be kept for a minimum of 40 days. The SAFE Banking Act would not address the loss of product since any money is kept in a safe located in a locked and secure room and is often not accessed by burglars.

The justification for the SAFE Banking Act claims marijuana businesses do not have banking accessibility is misleading in my experience. Shannon Gray, marijuana communications specialist at the Colorado Department of Revenue stated in an article dated May 30, 2019, "We do hear from licensees that the majority of businesses have access to banking services."¹ The article also noted that Safe Harbor Services, a wholly owned subsidiary of Partner Colorado Credit Union, has been helping credit unions and banks in about 10 states to create systems and procedures for managing cannabis accounts.

In addition, approving the SAFE Banking Act would open more opportunities for money laundering and black-market investors. As one possible example, a cartel would drop off backpacks of cash to a dispensary for deposit, possibly in excess of \$10,000 per transaction, which would be a huge advantage over current constraints. The dispensary would deposit the money in their bank account, and then bill a shell company for "security services," "cleaning services," or some other plausible service that would never be performed. Now the money has been returned to cartel control and can be transferred electronically.

If banking services are already being utilized in Colorado and several other states, and the threat of burglary and robbery is loss of product and not money, then there must be another reason marijuana businesses are pushing for the SAFE Banking Act. Indeed, this bill has a much wider purpose to allow out-of-state hedge funds to pump billions of dollars of investments into the marijuana industry. This is a very intentional step to the full federal legalization of marijuana and eventually other drugs. Denver has recently approved the "lowest level priority for enforcement" (for adult possession under an ounce) of Psilocybin ("Magic Mushrooms"). Oakland and other cities in California are following suit. Where does this stop? Where is the common sense?

As a long-time member of Colorado law enforcement, currently experiencing the drug induced psychosis of vulnerable populations in the Denver-metro area due to normalization of mind-altering substances, it is my opinion from all that I have seen, the number one priority should be that more research is accomplished regarding the effects of marijuana use, as well as

¹ <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/05/30/cannabis-banking-bill-may-falter-again-despite-state-support>

educating the public regarding the real issues with regards to the legalization of marijuana. The marijuana lobby does not want either.

Thank you.



Marijuana Policy Project
P.O. Box 21824 • Washington, DC 20009
202-462-5737 • www.mpp.org

July 23, 2019

**Challenges for Cannabis and Banking: Outside Perspectives
Testimony from the Marijuana Policy Project
Director of Federal Policies Don Murphy**

Dear Chair Crapo, Ranking Member Brown, and members of the Senate Banking, Housing, and Urban Affairs Committee,

We commend your committee for calling today's hearing on cannabis businesses' difficulty accessing financial services. As states and territories continue to legalize and regulate marijuana — for medical purposes or adults' use — the issue of safe banking has become increasingly urgent to address.

Today, 49 states' laws acknowledge the medical value of cannabis in some form, as does every U.S. territory other than American Samoa.¹ Thirty-three states (including the 11 with legalization laws) allow patients to use and safely access medical cannabis and four more allow access to lower-THC cannabis products. However, limited access to financial services can interfere with implementation of these programs. West Virginia's medical cannabis program — signed into law in April 2017 — has been delayed two years thus far because the financial institutions that serve the state government have been unwilling to hold funds related to the medical cannabis program due to federal law. I am grateful for your serious, pragmatic consideration of a more realistic path forward.

I write you as the director of federal policies for the Marijuana Policy Project, the largest marijuana policy organization in the United States. MPP has advocated for and advanced humane and sensible marijuana policies since 1995, playing a leading role in enacting most of the marijuana policy reforms of the past 15 years.

Today, I write in support of the Secure and Fair Enforcement (SAFE) Banking Act, S. 1200, a bipartisan bill that would protect patients, consumers, regulators, and employees of financial institutions and auxiliary businesses involved in state-legal cannabis-related transactions. Additionally, it would facilitate opportunities for prospective small and minority-owned businesses that have less access to capital. The SAFE Banking Act would address many of the fundamental difficulties associated with lack of access to traditional financial services — directly impacting patients, workers, and customers — and would help bridge the disconnect between state and federal cannabis laws.

I. Public Safety Demands Safe Banking

One does not have to support marijuana — or even making medical marijuana legal — to recognize that banking services for state-legal cannabis businesses are a public safety imperative. Cannabis businesses have existed for more than two decades, through four presidential administrations. They are not going away. All federal laws that complicate banking do is increase the risk of violence and undermine state regulatory efforts.

Significant public safety issues arise when cannabis-related businesses have inadequate access to banking institutions. Businesses are forced to operate on a cash-only or cash-mostly basis, making them an

¹ Idaho is the only state without any type of medical cannabis or low-THC/CBD law. However, MPP is working with allies in the state on a 2020 medical cannabis ballot initiative. Polling indicates it would easily pass.

appealing target for criminals.² This makes operating and working for a cannabis business significantly more risky. Each business has thousands to tens of thousands of dollars in cash they must store, and employees must transport thousands of dollars of cash to vendors, banks or credit unions (for those able to secure them), state tax collectors, and the IRS — putting them at risk. Industries that operate almost exclusively with cash present obvious public safety concerns,³ including an increased risk of being victim to violent crimes. (It is worth noting that the danger is even greater outside the context of state-legal, state regulated marijuana sales. On the completely illicit market, marijuana sellers and purchasers are at increased risk due to the underground, secretive nature of the sales, in addition to their cash-only nature.⁴) State government and IRS employees also face significant security concerns when collecting hundreds of million of dollars in cash tax payments each year.

State-legal cannabis was a \$10.4 billion industry in the U.S. in 2018,⁵ yet less than 650 banks and credit unions currently work with cannabis-related businesses.⁶ Those institutions are typically small community banks or credit unions that serve a small number of cannabis businesses. Communities will be safer if cannabis-related funds can be electronically transferred and deposited in regulated financial institutions. The SAFE Banking Act would create a safe harbor for financial institutions serving cannabis industry and ancillary businesses, and filing suspicious activities reports.

II. A Lack of Banking Hurts Patients

Importantly, the SAFE Banking Act would reduce costs to patients and ease the implementation of medical cannabis laws.

There are no insurance plans that covers medical marijuana, forcing patients and caregivers to pay out of pocket for their medicine. Increased banking access and clear financial regulations would help by reducing the price of medical marijuana, which is disproportionately high — due in part to a lack of banking access.

The lack of adequate access to financial services substantially drives up the costs of medical cannabis products. It means many cannabis businesses must employ staff just to count bills, to pick up and deliver cash — in cars modified to include drop safes — and to wait while banks, tax authorities, and vendors count the cash again. All of this drives up costs for patients.

Limited access to federally regulated banking services has been largely responsible for the very slow implementation of medical cannabis in West Virginia. Gov. Jim Justice signed West Virginia's medical cannabis bill into law on April 19, 2017. Sales were supposed to begin in early July 2019, but rulemaking has not even begun. This is largely due to U.S. Attorney Mike Stuart's hostility to cannabis.⁷ He has taken

² Kristen Shamahan, "Man Picking Up Cash at Marijuana Business Beaten, Robbed," *Fox 5 News*, January 10, 2018. See: <https://fox5sandiego.com/2018/01/10/man-collecting-cash-at-marijuana-business-beaten-and-robbed/>

³ Tom McGhee and Kieran Nicholson, "Slain pot dispensary security guard dreamed of becoming a police officer," *Denver Post*, June 20, 2016. See: <https://www.denverpost.com/2016/06/20/green-heart-marijuana-dispensary-security-guard-killed/>

⁴ See Dan Werb, et al., "Effect of drug law enforcement on drug market violence: A systematic review," *International Journal of Drug Policy*, Mar. 2011; "Family of police informant who was murdered, dismembered agrees to \$1M settlement," *WJBK*, Oct. 4, 2017; Dan Copp, "Man convicted for killing marijuana dealer loses appeal" *Honolulu Today*, April 28, 2018; Xerxes Wilson, "Law classmate sentenced to 15 years for Hockessin drug murder," *Delaware News Journal*, Feb. 21, 2019

⁵ "Legal Marijuana Industry Had Banner Year in 2018," *CNBC*, December 27, 2018. See: <https://www.cnbc.com/2018/12/27/legal-marijuana-industry-had-banner-year-in-2018.html>

⁶ Muggie Cowee, "Ranks of US banks serving cannabis firms growing, but data may overstate true number," *Marijuana Business Daily*, June 25, 2019. See: <https://mjbizdaily.com/chart-us-banks-serving-cannabis-firms-growing-data-may-overstate-true-number/>

⁷ <https://twitter.com/USAttyStuart/status/970758369345785856>. ("Key word in Congress' mandate - "Implementing." States may implement w/out enforcement but no mention of enforcement after implementing")

a very narrow read of the federal medical cannabis funding rider and, likely as a result, banks that do business with West Virginia have not been willing to even hold accounts for medical cannabis fees the government collects. As a result, this year the legislature reworked the law in hopes that credit unions might be willing to hold cannabis-related deposits.⁸ Had the SAFE Banking Act been in place, patients would likely be closer to safely accessing medical cannabis in West Virginia than they are currently.

III. The SAFE Banking Act Facilitates Minority & Small Business Access

Allowing cannabis-related businesses to access regulated financial services would increase access to capital among communities that have been disproportionately disadvantaged by cannabis prohibition. Federal inaction on legal banking access is making it harder to meet goals of diversity in the cannabis industry.

Massachusetts, Illinois, and some jurisdictions in California have prioritized licenses for those most impacted by the war on drugs, and other jurisdictions have explicitly sought to ensure racial diversity. (African Americans are 3.7 times as likely to be arrested for cannabis possession compared to whites, despite similar rates of marijuana use.⁹) One significant challenge to increasing diversity in marijuana business ownership is that African Americans have far less wealth due to slavery, segregation, red lining, and other forms of government-sanctioned and private discrimination.¹⁰ Loans are thus crucial to ensure diverse ownership. But, many banks are wary to even open accounts for marijuana businesses — as doing so may be federal money laundering. We are not aware of a single bank that provides cannabis business loans.

Illinois' new law to legalize and regulate cannabis establishes a fund to provide tens of millions of dollars in grants and loans to social equity applicants — applicants that were impacted by the war on marijuana or were from communities hard hit by poverty and by disproportionate marijuana enforcement. However, it remains to be seen if the financial institutions that serve the state will be willing to provide the banking services that would be necessary to implement that portion of the law. The SAFE Banking Act would address this by creating safe harbor for banks — including those serving governments like Illinois — that provide small business loans, which would begin to level the playing field and increase opportunities for diverse representation of historically marginalized communities in the cannabis industry.

Increasing banking access would also help create space for more women in leadership roles in the cannabis industry. The percentage of women holding executive positions in cannabis businesses is higher than the average across larger U.S. businesses: 36 percent in the cannabis industry as compared to 22 percent overall.¹¹ Because this is a relatively new, rapidly expanding industry, there is great potential that an expansive range of individuals can be successful in this field. Allowing banks to provide financial services will expand this access to women and minorities, presenting financial institutions with an exclusive opportunity to lift up communities that are historically disadvantaged.

Easing access to banking will also reduce the excessive costs that result from the lack of financial services, further easing participation by small businesses and minority- and women-owned businesses.

⁸ See “WV Gov. Justice signs medical marijuana banking bill into law,” WVNews.com, Mar. 26, 2019.

⁹ “The War on Marijuana in Black and White,” *American Civil Liberties Union*, June 2013. See:

https://www.aclu.org/sites/default/files/field_document/1114413-mj-report-rfs-rc11.pdf

¹⁰ See Christian Weller, “African-Americans’ Wealth A Fraction That Of Whites Due To Systematic Inequality,” *Forbes.com*, Feb. 14, 2019.

¹¹ “Women Hold 36% of Executive-Level Positions in the Cannabis Industry,” *Marijuana Business Daily*, October 12, 2015. See: <https://mbzdaily.com/chart-of-the-week-women-holding-more-seats-in-the-executive-suite-at-cannabis-companies/>

In addition, the SAFE Banking Act requires an annual report to Congress on access to financial services for minority- and women-owned cannabis businesses, and recommendations to expand access for them. It would also require the Comptroller General to study barriers to marketplace entry for minority- and women-owned cannabis businesses, and report to Congress on recommendations.

IV. The SAFE Banking Act Protects Financial Institutions

Providing access to banks for cannabis businesses would improve circumstances not only for the public at large, but for financial institutions themselves as well. Even in jurisdictions where cannabis is legal, financial institutions face potential risk because funds involved in cannabis-related transactions are considered illegal by federal regulators and law enforcement officers. This makes it far less likely that banks will engage in the industry or even provide services to individuals who are paid from cannabis-associated funds — everyone from the accountant who manages the books to the security guard monitoring the front door.

Federal law considers any dollar that touches the cannabis industry as corrupted, and such broad interpretation provides little certainty to financial institutions. We are concerned that cannabis workers are subject to numerous deprivations due to the lack of safe, legal banking access. MPP — a non-profit — lost bank accounts and briefly lost our retirement fund provider due to cannabis' legal status. (MPP does not sell, grow, or possess cannabis.) Due to limited access to banking and financial services, many cannabis industry workers are paid in cash, which leaves them vulnerable to theft outside of work hours, too. Workers themselves often have difficulty with banking and getting automotive and housing loans. Veterans employed in the cannabis industry have been denied VA home loans due to their source of revenue being federally illegal.¹² All depository institutions have to consider how to handle cash deposits that may have been involved in legitimate cannabis-related transactions, and banks may feel compelled to cancel the account of someone who works in the cannabis industry. Such dilemmas reveal the extensive reach of the cannabis industry, and under current federal law, institutions interacting with these customers are at risk.¹³ Financial institutions cannot help but be exposed to potential penalties, as so many legitimate businesses support the burgeoning cannabis industry.

Banking access is critical to addressing a significant area of risk owed to the unavoidable mixing of cannabis-related funds with auxiliary business and individual accounts. In addition to retailers and cultivators, there are vendors and suppliers, landlords and workers that are indirectly tied to the cannabis industry, posing legal risk for banks serving these individuals, as indirect connections to marijuana revenues are difficult, if not impossible, for banks to recognize and circumvent.¹⁴ By clarifying federal cannabis policies, including money laundering issues and Suspicious Activity Reports (SARs), the SAFE Banking Act would make it safer for financial institutions to process cannabis-related transactions.

V. Conclusion

Thank you, Chair Crapo, Ranking Member Brown, and members of the committee for your time and attention to this important issue. We join the American Bankers Association, all 51 state bankers

¹² "Vets Denied VA Home Loans If They Work with Cannabis," *Military.com*, June 5, 2019 (explaining the denial was reportedly because "approving it would risk prosecution by U.S. Department of Justice under anti-money laundering statutes."); Those statutes would not apply if the state-legal cannabis activity were federally legal.

¹³ Lee Reimers and John W. Matthews, "Federal Law Leaves Banks Shying Away from Marijuana Businesses," *The FinReg Blog*, December 5, 2016. See: <https://sites.duke.edu/thefinregblog/2016/12/05/federal-law-leaves-banks-shying-away-from-marijuana-businesses/>

¹⁴ Rob Nichols, "End the Cannabis Banking Problem," *The Hill*, February 18, 2019. See: <https://thehill.com/opinion/finance/430463-end-the-cannabis-banking-problem>

associations, and 38 state attorneys general in support of the SAFE Banking Act, and we urge your committee to advance this important legislation.

This bill does not propose legalization, nor does it make any normative statements about cannabis use. It also would not require financial institutions to work with cannabis-related businesses. Rather, it follows the laws set by states — 37 of which already allow legal cannabis sales for medical, low-THC medical, or personal use. The SAFE Banking Act allow financial institutions to legally provide services that would positively impact public safety, institutional risk, small business and minority access, and patient access. In jurisdictions where cannabis transactions are in compliance with state laws, it makes sense for federal financial regulations to provide safe harbor. We also urge the committee to support other measures to modify the federal laws and policies that impede banking access and credit card processing. Whatever committee members might think of states' decisions to legalize medical and adult-use cannabis, we hope you agree with these measures to promote public safety.

If you have any questions or need any additional information, my staff and I would be happy to help and can be reached at the email address below. Thank you for the opportunity to provide this testimony.

Sincerely,

Don Murphy
Director of Federal Policies
Marijuana Policy Project
dmurphy@mpp.org



National Armored
Car Association

11313 Stones Throw Drive
Reston, VA 20194

202.642.1970
info@nationalarmoredcar.org

July 23, 2019

The Honorable Mike Crapo
Chairman
Senate Committee on Banking,
Housing, and Urban Affairs
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
Senate Committee on Banking,
Housing, and Urban Affairs
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the National Armored Car Association (NACA), thank you for holding today's hearing entitled, "Challenges for Cannabis and Banking: Outside Perspectives." Formed in 1929, NACA is a business association that brings together the three major companies of the armored car industry—Brink's, Garda, and Loomis—with a focus on protecting and promoting the common interests of the industry. Our members provide secure transportation and cash management services for the Federal Reserve, financial institutions, state and local governments, and private businesses and individuals across the United States and internationally. These three organizations comprise approximately 90% of the armored car industry in the United States, and NACA members have handled virtually every dollar and coin in circulation.

While NACA's members do not take a position in favor of or in opposition to the legalization of cannabis or related products nor currently service the U.S. cannabis industry, we are supportive of the current legislative efforts underway in Congress that would address the existing conflict between federal and state law with respect to proceeds from cannabis-related businesses.

Currently thirty-three states and several territories, including the District of Columbia, Guam, and Puerto Rico, have legalized the use of cannabis to some extent. However, federal law prohibits cultivation, distribution, and possession of cannabis, imposing significant legal risks to financial institutions and ancillary businesses that might consider providing services to the cannabis industry. Consequently, hundreds of millions of dollars in cash are being transported and stored outside our banking system and often without adequate security and oversight. The lack of available vendors to provide secure transport and storage of cash increases the risk of criminal activity that can pose a danger not only to those involved in the cannabis industry but the general public as well.

Again, we are grateful for the Committee's attention to this important issue and look forward to working with Congress on legislation that would allow for the safe and secure transport of cash in states that have legalized and regulated cannabis.

Sincerely,

Basil Thomson

Basil Thomson
Senior Director, NACA

www.NationalArmoredCar.org



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The National Association of Mutual Insurance Companies (NAMIC) is pleased to provide testimony on the challenges with cannabis and the implications of federal legislation as it relates to the property/casualty insurance industry.

NAMIC membership includes more than 1,400 member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies write \$268 billion in annual premiums. Our members account for 59 percent of homeowners, 46 percent of automobile, and 29 percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

NAMIC and its members appreciate the committee's engagement with the insurance industry on this complex public policy issue. Unless and until Congress decides to de-schedule cannabis or modify the Controlled Substances Act, NAMIC supports legislation that would address the insurance-related issues associated with medical and adult-use legal cannabis. Federally sanctioned safe harbor legislation, such as The Clarifying Law Around Insurance of Marijuana, would provide much needed clarity, certainty, and protection from the conflicting local, state, and federal laws and we strongly urge this committee to consider and pass it.

INTERSECTION OF CANNABIS AND PROPERTY/CASUALTY INSURANCE

As of July 2019, cannabis is legal for medical use in more than 33 states and D.C., decriminalized in at least 23 states and D.C., and available for recreational use in 11 states and D.C. The state legal landscape has shifted dramatically in recent years, and public opinion on the legalization of marijuana has transformed significantly with no sign of relenting anytime soon. However, the fact remains that cannabis continues to be a Schedule I Drug on the federal Controlled Substances Act list. Therefore, it is illegal to assist in its dissemination in interstate commerce, with other federal laws such as RICO allowing for civil penalties as well as criminal charges for assisting in the distribution of a controlled substance.

Issues of conflicting law have already arisen in the states that deal with such rudimentary concepts of having an insurable interest and whether you can contractually insure for an "illegal" substance as federally defined. Homeowners, automobile, business, crop, commercial, inland marine, worker's compensation, product liability, professional liability including Errors and Omissions and Directors and Officers as well as intellectual property coverage and policies all have the potential to face such issues. Whether the issue is owning, selling, prescribing, medicating, growing, transporting, storing, advising, assisting, using, reimbursing or any other concept that can be conceived, insurance – and especially the property and casualty lines – is



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likely to come into play in some capacity. Exposure to interactions with the “legal cannabis” industry is something that the insurance industry is monitoring carefully.

Insurance companies have been, and will continue to be, affected by the presence of cannabis for sale and for medical and adult use across the states where it has been legalized. The industry and its regulators are increasingly recognizing this fact. For example, the National Association of Insurance Commissioners in August 2018 created the Cannabis Working Group to study cannabis issues affecting the insurance industry.¹ A brief consideration of just a few sample lines of business will serve to illustrate some of the interconnections.

HOMEOWNERS INSURANCE

The interconnectedness of cannabis and insurance can be clearly seen through some of the issues that have arisen with the homeowners line of insurance. A common question growers and users are asking is whether marijuana and related products would qualify as property covered by homeowners insurance policies if they are stolen or damaged. The answer is complicated. A court case from Hawaii serves as an illustrative case. In July 2010, 12 of Barbara Tracy’s marijuana plants were stolen from her property. Tracy, a resident of Hawaii, filed a claim, and her carrier offered her a settlement of \$8,800.² Tracy rejected the settlement and asked for more money plus bad faith damages totaling \$45,000. Her carrier contested the claim, arguing there was no valid insurable interest in the plants because of a statute that says you can only have insurable interest in a lawful substance.³ Given that marijuana is illegal under the Controlled Substances Act, Tracy’s carrier argued that it would be defying public policy if the court mandated the policy cover the plants.⁴ In the end, the court sided with the carrier and rejected Tracy’s claim. However, as several other cases described below demonstrate, the results of these types of cases can depend on whether the judge rules that the CSA or state laws legalizing the substance are the controlling law.

The prior case demonstrates a key general principle when dealing with cannabis and insurance. Basic contractual law holds that parties can contract for any matter that is considered legal. An “illegal” contract can be determined to be void ab initio or “from the beginning.” Due to the various scenarios that can arise between the policyholder, the insurer, and other third parties, the need to exclude or disclaim liability after a policy is in effect is a real consideration that

¹ See https://www.naic.org/cmtc_c_cannabis_wg.htm.

² Eyerly, Tred, “Coverage for Stolen Marijuana Plants Violates Public Policy,” Insurance Law Hawaii, March 28, 2012. (http://www.insurancelawhawaii.com/insurance_law_hawaii/2012/03/insuring-for-stolen-marijuana-plants-violates-public-policy.html)

³ “Barbara Tracy vs. USAA Casualty Insurance Company,” March 16, 2012. (<https://cases.justia.com/federal/district-courts/hawaii/hidce/1:2011cv00487/98331/33/0.pdf?ts=1428892641>)

⁴ Wells, Brenda, “Marijuana Legalization: Implications for Property/Casualty Insurance.” (<http://www.insuranceissues.org/PDFs/371W.pdf>)



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must be understood and defended accordingly if an insurer so chooses. This in turn creates other coverage decisions, including the duty to defend and indemnify that can result in additional declaratory rulings from courts. Further, issues concerning timely and accurate disclosures as to coverage or risk, underwriting clarity and investigation, risk management of entities, cooperation with an insurer, and lack of candor all play into coverage decisions that can result in litigation.

Another critical question is how an insurance company will know if a policyholder is growing cannabis and what that ultimately does to its risk profile, regardless of whether the company intends to cover any of the grow apparatus or the product. In other words, this could be a risk factor over-and-above what it might cost to insure the marijuana itself. Many homes' electrical systems are not equipped to handle the kind of power required to operate an in-home grow and more inexperienced growers and manufacturers will not always take the necessary steps to create the safest possible environment for growing inside the home. Insurance companies may find that their homeowners policies in states that are decriminalizing and legalizing marijuana may need to address the risk factors of growing marijuana. Grow operations may present more risk to a home due to the nature of growing the plant, and insurers may want to attempt to ascertain if this additional risk factor is present when underwriting a homeowners insurance policy.

Another key issue for both homeowners and commercial property insurers to understand is the potential dispute over classifying property as commercial or personal. In a Colorado case, *Weingarten v. Auto Owners Insurance Company*, Connie and Edward Weingarten sued their insurer arguing the company had "denied their insurance claim which sought coverage for property damage due to an illegal marijuana grow operation."⁵ The insurer sought summary judgement based on the fact that the property was not used "principally" as a residence but rather as an "illegal marijuana grow operation." The Weingartens provided photos of furniture, electronics, and other amenities to argue that the house was primarily used as a residence after initially admitting they used "virtually the entire house in this operation."⁶ The judge denied summary judgement to the insurer "to the extent it sought a determination that the house was not used principally as a private residence."

COMMERCIAL PROPERTY

A commercial property insurer may have similar considerations as a homeowners insurer when it comes to the potential risk profile of a policyholder that may be operating a marijuana grow within the property. Businesses that establish commercial-scale marijuana grow facilities

⁵ Poli, Stephanie, "Can a Marijuana Grow Operation Also Be a Residence?" *Property Insurance Coverage Law*, April 25, 2018. (<https://www.propertyinsurancecoveragelaw.com/2018/04/articles/insurance/federal-court-rules-that-jury-to-decide-whether-an-insureds-property-was-used-principally-as-a-residence-while-also-used-to-further-an-illegal-marijuana-grow-operation/>)

⁶ *Ibid.*



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represent fire risk substantially due to the complex apparatus and electric configurations required to safely grow and maintain marijuana. These businesses also have a very high-risk profile when it comes to theft. Noah Stokes, founder and CEO of OmniGuard Security, a marijuana security business, observed, “I’ve never met anybody who grows marijuana who’s not been robbed; not just robbed once, but robbed multiple times.”⁷

As in the case of homeowners insurers, in states that are decriminalizing and legalizing marijuana, companies may want to know for certain whether any part of the commercial property being insured is being used by a marijuana-related business. Similarly, landlords and insurers of landlords can become involved in cannabis issues/claims inadvertently. The increased costs involved in insuring cannabis operations put a higher burden on underwriters to understand their insureds and the potential for cannabis-related tenants/businesses to increase the risks at insureds’ rental properties. In addition, the historic use and rental of an insured property can increase insurer exposure. As in environmental claims, underwriters might benefit by inquiring about the historic use of insured properties to avoid being brought into litigation along with prior carriers for an insured even if the cannabis risk is no longer at the property.

To the extent that a property is known to house such a business and coverage is offered anyway, marijuana’s classification as a Schedule I drug may not be a valid reason for denying payment of a claim. The case of *Green Earth Wellness Center v. Atain Specialty Insurance Company* involved a claim filed by Green Earth in 2013 after “thieves entered Green Earth’s grow facility through a roof vent and stole various plants.”⁸ Atain denied the claim on the grounds that marijuana is illegal at the federal level even though it knowingly provided Green Earth with general liability and commercial property policies for marijuana plants.⁹

Green Earth subsequently sued for breach of contract, bad faith, and unreasonable delay in payment. The district court eventually ruled that Colorado laws governed the contract, not federal laws.¹⁰ Atain, having entered into the contract knowing that Green Earth was a marijuana business, could not invoke federal illegality of marijuana as a reason not to pay in this case.¹¹

Property risks associated with cannabis can include the loss or damage of the product, fire damage, theft, and damage to the building itself.¹² Ultimately, insurance companies,

⁷ Mesh, Aaron, “Starting a pot business? These companies want to help,” *Willamette Week*, March 24, 2015. (<http://www.wweek.com/portland/article-24303-joint-ventures.html>)

⁸ *Ibid.*

⁹ Mesh, Aaron, “Starting a pot business? These companies want to help,” *Willamette Week*, March 24, 2015. (<http://www.wweek.com/portland/article-24303-joint-ventures.html>)

¹⁰ *Ibid.*

¹¹ “Clearing the Air on Marijuana Legalization and Insurance,” PowerPoint Presentation by Brenda Wells, Ph.D., East Carolina University. (<https://register.gotowebinar.com/recording/5439145873665509889>)

¹² “Weeding Through the Unique Insurance Needs of the Cannabis Industry,” *The National Association of Insurance Commissioners*, May 16, 2018. (http://www.naic.org/cipr_events.htm)



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particularly those with businesses in states with medical or adult-use marijuana laws on the books, should be aware of what is and what is not potentially covered by a specific property policy with regard to marijuana.

AUTO

Some reports suggest that highway safety has already been affected by the surge of cannabis legalization across the country. A 2018 Governors Safety Highway Administration study found that marijuana is the most common drug found in fatally injured drivers and marijuana presence has increased substantially in the past decade.¹³ One recent Insurance Institute for Highway Safety (IIHS) study "examined 2012-16 police-reported crashes before and after retail sales began in Colorado, Oregon and Washington" which estimates "that the three states combined saw a 5.2 percent increase in the rate of crashes per million vehicle registrations, compared with neighboring states that didn't legalize marijuana sales."¹⁴ Additionally, an October 2018 Status Report produced by the IIHS and the Highway Loss Data Institute (HLDI) noted, "HLDI analysts estimate that the frequency of collision claims per insured vehicle year rose a combined 6 percent following the start of retail sales of recreational marijuana in Colorado, Nevada, Oregon and Washington, compared with the control states of Idaho, Montana, Utah and Wyoming."¹⁵ IIHS-HLDI President David Harkey has recently noted, "Despite the difficulty of isolating the specific effects of marijuana impairment on crash risk, the evidence is growing that legalizing its use increases crashes."¹⁶

The IIHS and HLDI also identify other potential challenges related to marijuana intoxication and sobriety testing. Their 2017 Status Report cites, "unlike alcohol, experts don't agree on how much marijuana must be consumed for a driver to be impaired. [Additionally] A positive test for THC and its active metabolite does not mean the driver was impaired at the time of the crash."¹⁷ In theory, a driver could be completely sober yet test positive for marijuana that was consumed weeks before the test. The lack of a reliable impairment test for marijuana could

¹³ "Drug-Impaired Driving – Marijuana and Opioids Raise Critical Issues for States," Governors Highway Safety Association, May 2018. (<https://www.ghsa.org/resources/DUID18>)

¹⁴ "Crashes rise in first states to begin legalized retail sales of recreational marijuana," Insurance Institute for Highway Safety, Highway Loss Data Institute, October 18, 2018. (<https://www.iihs.org/iihs/news/desktopnews/crashes-rise-in-first-states-to-begin-legalized-retail-sales-of-recreational-marijuana>)

¹⁵ "Status Report: Legal pot Crashes are up in states with retail sales," Insurance Institute for Highway Safety, Highway Loss Data Institute, Vol. 53, No. 6, October 18, 2018. (<https://www.iihs.org/externaldata/srdata/docs/sr5306.pdf>)

¹⁶ "Crashes rise in first states to begin legalized retail sales of recreational marijuana," Insurance Institute for Highway Safety, Highway Loss Data Institute, October 18, 2018. (<https://www.iihs.org/iihs/news/desktopnews/crashes-rise-in-first-states-to-begin-legalized-retail-sales-of-recreational-marijuana>)

¹⁷ "Status Report," Insurance Institute for Highway Safety, Highway Loss Data Institute, June 22, 2017, Page 5. (<http://www.iihs.org/externaldata/srdata/docs/sr5204.pdf>)



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prevent law enforcement from identifying impaired drivers and prevent insurers from understanding an insured's true risk profile as they can with an alcohol-related DUI on a driving record.

Relatedly, it is not clear that users of marijuana know how much or whether certain kinds of consumption will lead to impairment. As Chris Cochran, spokesperson for California's Office of Traffic Safety asserted, "With the higher prevalence of marijuana in the world, what we're seeing is a sort of denial of the fact that marijuana can be impairing ... Marijuana is not a benign substance when it comes to driving ability. It throws off your perception of time, loosens inhibitions, and changes reaction times."¹⁸ If drivers do not understand or have a clear way of measuring their own impairment or risk potential, driving in states with high levels of marijuana use could pose greater risk to fellow drivers and stymie efforts to combat impaired driving.

Another consideration is personal injury protection coverage, also known as "no-fault" insurance coverage. These policies pay claims for incurred medical expenses regardless of fault (as well as lost wages in some states) for injury and property damage because of an auto loss or accident. Reimbursement for injuries can arise that may include a duty to reimburse for prescribed cannabis because of a motor vehicle collision. On the other hand, some states, such as Michigan, have contained within their Personal Injury Protection (PIP) statutes a ban on cannabis reimbursement. The statute states "[a]n insurer shall not be required to provide coverage for the medical use of marihuana or for expenses related to the medical use of marihuana."¹⁹ A close review of state law and policy coverage in any given state is needed to truly understand coverage exposures.

Companies offering commercial auto may also be impacted by the marijuana industry. Transportation in the industry entails carrying large and expensive quantities of cannabis product(s), in addition to thousands of dollars in cash due to the lack of available banking services as discussed above. This situation presents an enormous amount of risk. Commercial auto insurers will want to work closely with any transportation or shipping company policyholders to understand if and how someone might ship marijuana using their service and how that will impact their risk profiles as potential distributors.

WORKERS' COMPENSATION

Workers' compensation insurers generally have had to deal with the complexities, confusion, and potential impact of the rise of marijuana legalization. One significant question is whether workers' compensation should cover medical marijuana if it is prescribed to the patient by a

¹⁸ Adams, Laura, "Ultimate Guide to Marijuana Use and Insurance," Huffington Post, April 19, 2017. (https://www.huffingtonpost.com/entry/ultimate-guide-to-marijuana-use-and-insurance_us_58f7b9ece4b0c892a4fb74d4)

¹⁹ Michigan Insurance Code §500.3107, as amended.



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physician. Currently five states – Connecticut, Maine, Minnesota, New Jersey, and New Mexico – have laws requiring medical treatment reimbursement for marijuana under workers' compensation laws, according to the National Council for Compensation Insurance.²⁰ Despite state law, some courts have ruled that the federal Schedule I drug classification under the CSA preempts state law, and Florida and North Dakota have passed laws that exclude marijuana treatment from workers' compensation reimbursement.²¹

A case that illustrates the complex and changing legal landscape for workers' compensation insurance and medical marijuana is *Gaetan H. Bourgoin v. Twin Rivers Paper Company, LLC*. In the 1980s Bourgoin of Maine, sustained a work-related back injury while working at Twin Rivers Paper Mill. Bourgoin was initially prescribed opioids in various forms until the side effects produced adverse health effects. As a result, Bourgoin's physician issued him a medical marijuana certification to manage his chronic back pain.²² The Maine's Workers' Compensation Board ruled that Twin Rivers' insurer must reimburse Bourgoin for his medical marijuana.²³ However, Twin Rivers contested Bourgoin's successful petition citing that CSA "barred" reimbursement despite Maine's Medical Use of Marijuana Act.²⁴ Following an unsuccessful appeal to the appellate division, Twin Rivers' petition for appellate review was granted by the Maine Supreme Court.²⁵

The Maine Supreme Court later held that there was a, "positive conflict between federal and state law" and that the CSA preempts the state's MMUMA law.²⁶ Maine Supreme Court Associate Justice Jeffrey Hjelm stated, "Prosecuted or not, the fact remains that Twin Rivers would be forced to commit a federal crime if it complied with the directive of the Workers' Compensation Board."²⁷ Hjelm contended that Twin Rivers could not simultaneously comply with both federal and state laws, but that according to the CSA, Two Rivers would be "aiding and abetting Bourgoin in his purchase, possession and use of marijuana," and therefore breaking federal law.²⁸

²⁰ "The Marijuana Conversation: Questions Workers Compensation Insurers Are Asking," The National Council on Compensation Insurance, August 17, 2017. (https://www.ncci.com/Articles/Pages/11_Marijuana-Conversation-Insurer.aspx)

²¹ *Ibid.*

²² *Gaetan H. Bourgoin v. Twin Rivers Paper Company, LLC*, Maine Supreme Judicial Court, June 14, 2018. (http://www.courts.maine.gov/opinions_orders/supreme/lawcourt/2018/18me077.pdf)

²³ O'Kresik, Linda Coan, "High court considers whether workers' comp should cover former millworker's medical pot," Bangor Daily News, September 13, 2017. (<https://bangordailynews.com/2017/09/13/news/high-court-considers-whether-workers-comp-should-cover-former-millworkers-medical-pot/>)

²⁴ Blotfield, Elizabeth, "Maine Employers Are Not Required to Reimburse Employees for Medical Marijuana Use," Insurance Journal, June 19, 2018. (<https://www.insurancejournal.com/news/east/2018/06/19/492689.htm>)

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*



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The Bourgoin case demonstrates that in some instances state laws can be preempted by the CSA, but this is not always the case. In *Vialpando v. Ben's Automotive Services and Redwood Fire & Casualty*, a New Mexico case from 2014, an injured worker's employer cited the CSA and asserted that it would be illegal under federal law to reimburse the employee for medical marijuana.²⁹ New Mexico's intermediate appellate court determined that "an employer and its workers' compensation carrier are required to reimburse an employee for costs associated with the purchase of medical marijuana."³⁰ The juxtaposition of the two cases illustrates the ambiguity that is created given conflicting state and federal marijuana laws. This state of affairs led NCCI to predict, "For the foreseeable future, the marijuana landscape will likely remain a state-by-state patchwork with courts being actively engaged in interpreting the law."³¹

As in the auto insurance space, marijuana use has created a perplexing landscape for employers, employees, and insurers when it comes to workers' compensation. Since testing for accurate marijuana intoxication levels is more challenging than for alcohol, it may be difficult to determine if employees who have sustained an injury on the job were under the influence of marijuana at the time of the injury. If that is so determined (the determination likely to be challenged given the above), depending on state law and company policy, it may be the case that workers' compensation will not be available. If the company established a "no drug-use policy," the employee filing a claim in this case may have an issue. These are just a few of the many intricacies pertaining to workers' compensation that insurance companies and policyholders have experienced during the trend of state-based legalization of marijuana across the U.S.

It is imperative for workers' compensation insurance companies with business spanning across the 33 states that have now legalized medical and/or recreational marijuana to closely monitor the shifting legal status of medical marijuana to better understand the conditions that prompt and require reimbursement for medical marijuana, at the very least under state law. At present, even with more lenient state laws, the combination of the Schedule I classification and local courts' interpretation, it is a difficult space to navigate. This is even more true for legalized states in which stakeholders along the cannabis supply chain cannot find coverage in the private market and resort to the state's residual market mechanism, which in many cases is an assigned risk pool. If a company is required to offer coverage to a cannabis business through a residual market mechanism, this will put the company between the proverbial rock and a hard place facing a serious and fundamental conflict between state and federal laws.

²⁹ "New Mexico Court Affirms Workers' Compensation Determination Requiring Employer To Reimburse Employee for Costs of Medical Marijuana," *The National Law Review*, May 23, 2014.
<https://www.natlawreview.com/article/new-mexico-court-affirms-workers-compensation-determination-requiring-employer-to-re>

³⁰ *Ibid.*

³¹ "Court Case Update, Countrywide -- June 2018," June 20, 2018, National Council on Compensation Insurance.
https://www.ncci.com/Articles/Pages/11_Insights_CourtCase-Update-Jun202018.aspx

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Due to the complicated legal landscape described above, there are very few admitted property/casualty insurers active in the marijuana space, despite the fact that virtually every leg of the cannabis supply chain has a need for insurance products and services. Many in the marijuana industry have complained about the lack of insurance products available to growers, processors, and distributors. Due to the general reluctance of insurers to write policies for cannabis suppliers and products, some larger cannabis operations have considered establishing captive insurers in order to cover their specific insurance needs while others have looked to surplus lines carriers for needed coverage.³² Some admitted carriers have begun exploring the space. For example, in California in 2017, Golden Bear Insurance Company became the first admitted carrier to offer insurance policies for cannabis businesses.³³

- Both **commercial property** and **personal homeowners insurance** face many similar risks and, consequently, similar potential associated with growing, manufacturing, distribution, and possession of marijuana. As state laws increasingly sanction small, in-home growing and commercial sale for medicinal and adult-use, there is certainly a role for more commercial and homeowners insurers to play in ensuring that policies are offered that reflect the heightened risks associated with cultivating, processing, distributing, and consuming marijuana.
- Within the **commercial auto** space, **armored car coverage** is carving out a place for itself in the industry. According to Todd Kleperis, CEO of Hardcar Security, a recreational and medical marijuana transportation company, “You become a huge target [for criminals] and your risk profile is off the charts” when you are involved with moving marijuana products.³⁴ Kleperis’s unique business “operates more like a military operation than a transport company,” deploying unmarked trucks, often driven by armed military veterans.³⁵ High-risk policies for marijuana transportation companies such as Hardcar could be offered to further protect the players in the marijuana supply chain.
- Given all the businesses involved in the marijuana supply chain, the growth of cannabusiness will require more **workers’ compensation** coverage. Cannabusinesses

³¹ "The Cannabis Industry: An opportunity for growth," *Captive Insurance Times*, April 18, 2018. (http://www.captiveinsurancetimes.com/citimes/CITimes_issue_146.pdf)

²² "Filing Approved for First Admitted Insurer in California to Sell Cannabis Insurance," Insurance Journal, November 2, 2017. (<https://www.insurancejournal.com/news/west/2017/11/02/470292.htm>)

³⁴ Guillot, Craig, "Cannabis Transportation Risk," Risk & Insurance, February 20, 2018.

(<http://riskandinsurance.com/cannabis-transport-risk/>)

²⁵ Ibid.



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understand the many risks that accompany marijuana growing, manufacturing, and distribution have also created a demand for workers' compensation policies that will cover their employees in the event of a workplace accident.

- **Indoor and outdoor crop insurance** represents perhaps one of the most lucrative yet risky markets for property/ casualty insurers. An acre of marijuana can produce more than \$1.1 million worth of revenue – to put that in perspective, an acre of corn typically yields about \$645 worth of crop.³⁶ Farmers are looking to marijuana to diversify their crops and ultimately make a generous profit that cannot always be made with commodity grains. Farmers who have been growing marijuana crops have also noticed a coverage gap and have voiced their interest in cannabis crop insurance.³⁷
- Another line of insurance that will be affected by the growth of the cannabis industry is **product liability insurance**. Cannabusinesses have expressed a need for product liability insurance in case the product is defective and causes bodily harm or injury to a customer or a client. According to the law firm Wilson Elser, "From September 08, 2015, through April 26, 2017, Colorado authorities reported 66 cannabis recalls," which highlights an industry that is still learning how to harness and master the science behind the product.³⁸ Given that the physical composition of cannabis products can vary, consisting of different ingredients, doses, and pesticides, cannabusinesses have articulated a need for product liability insurance products. In particular, edible products may be significantly more potent than other forms of cannabis and clients may not realize that several bites may cause a longer and more intense effect than a small bite. If a customer falls ill from consuming a product – even if it was consumed incorrectly – liability exposure could apply up the supply chain.³⁹
- Like most retail stores, marijuana retail dispensaries also need **commercial general liability** coverage for any customer-related accidents or injuries that may occur on the premises. For example, California requires distributors to "carry and maintain commercial general liability insurance in the aggregate in an amount of no less than \$2,000,000 and in an amount no less than \$1,000,000 for each loss."⁴⁰ Demand for CGL policies from dispensaries and other cannabusinesses within the marijuana supply chain,

³⁶ "Comparative Yield Per Acre For Grains And Marijuana," New Frontier Data, January 20, 2016.

(<https://newfrontierdata.com/marijuana-insights/comparative-yield-per-acre-for-grains-and-marijuana/>)

³⁷ "Product Liability and Crop Insurance: The Must-Have Insurance Policies to Protect Your Cannabis Business," Cannabis Business Times, June 11, 2018. (<http://www.cannabisbusinesstimes.com/article/national-cannabis-insurance-services-product-liability-crop-insurance-cannabis-business/>)

³⁸ Stewart, Ian, "Insuring the Product Liability Risks of Cannabis," Wilson Elser, October 10, 2017.

(https://www.wilsonelser.com/news_and_insights/insights/2980-insuring_the_product_liability_risks_of_cannabis)

³⁹ Stewart, Ian, "Insuring the Product Liability Risks of Cannabis," Wilson Elser, October 10, 2017.

(https://www.wilsonelser.com/news_and_insights/insights/2980-insuring_the_product_liability_risks_of_cannabis)

⁴⁰ "What You Need to Know," Bureau of Cannabis Control Licensing Information.

(https://www.bcc.ca.gov/about_us/documents/17-191_information_workshop.pdf)



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 2000 Yucca Street, Suite 400, Las Vegas, NV 89102
 702.656.1059 | 702.656.1081
 2000 Yucca Street, Suite 400 | Las Vegas, NV 89102

especially those with frequent day-to-day interactions with customers in a retail store, may create a robust market.

- Analysts have predicted strong potential markets for other commercial lines products, including but not limited to **professional liability (E&O and D&O) and intellectual property coverages**.⁴¹

Growers, processors, landlords, distributors, and physicians in states that have decriminalized and legalized marijuana have articulated a litany of coverage gaps that could be addressed by property/casualty insurers. Admitted carrier cannabis coverage is almost nonexistent, and this lack of insurance has created a surge in the surplus lines and captive insurance markets. The emergence of admitted carriers such as Golden Bear Insurance Company in California suggests that some insurers are indeed trying to identify effective ways to collect data and write policies for personal and commercial cannabis lines.

Assuming some clarity is brought to the legal landscape surrounding cannabis and as cannabis businesses become more common, more property/casualty insurers may enter the market on an admitted basis. This process of integrating cannabis businesses with property/casualty insurance could be slow, but the cannabis industry could also offer a tremendous potential market for insurers to offer coverage to those involved throughout the supply chain.

CONCLUSION

It is understandable that the vast majority of insurance companies have hesitated to enter a market in an industry for which there is relatively little data, a patchwork regulatory environment, and plenty of legal ambiguity. Unless and until federal law is modified, it could be a very long time before major carriers move into the cannabis space. However, current public opinion combined with widespread state and local efforts to legalize cannabis signifies a shift toward broader acceptance of marijuana for medical and adult recreational use. The existing marijuana industry is robust and only expected to get bigger.

NAMIC believes that no state should ever create a circumstance, regardless of its own cannabis legalization laws, in which an insurer would be compelled by state law to violate federal law by being forced to provide insurance coverage for an illegal substance or business. However, if insurers are compelled to participate in any way with the cannabis industry, there should be a robust safe harbor from any federal legal liability under controlled substances-related law.

⁴¹ "Weeding Through the Unique Insurance Needs of the Cannabis Industry," The National Association of Insurance Commissioners, May 16, 2018. (http://www.naic.org/cipr_events.htm)



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Congressman Ed Perlmutter's, D-Colorado, [H.R.1595](#) – the SAFE Banking Act of 2019 – and Senator Jeff Merkley's, [S.2100](#), is a step in the right direction in addressing the complications faced by banks in providing services to legal cannabis businesses. While this legislation as passed out of the House Financial Services Committee does attempt to address the insurance related concerns, NAMIC believes that standalone legislation providing more robust protections for insurance companies is also necessary. Federally sanctioned safe harbor legislation, such as The Clarifying Law Around Insurance of Marijuana, would provide much needed clarity, certainty, and protection from the conflicting local, state, and federal laws and we strongly urge this committee to consider and pass it.

TESTIMONY OF AARON SMITH
OF THE
NATIONAL CANNABIS INDUSTRY ASSOCIATION

BEFORE THE

UNITED STATES SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
CHALLENGED FOR CANNABIS AND BANKING: OUTSIDE PERSPECTIVES

JULY 23 , 2019

Introduction

Chairman Crapo, Ranking Member Brown, and members of the Committee, I am Aaron Smith, Executive Director and Co-Founder of the National Cannabis Industry Association (NCIA), the largest national trade association dedicated to protecting state-legal cannabis businesses, defending state laws, and advancing federal policy reforms. On behalf of our members, we thank you for the opportunity to discuss our support for providing fair access to banking and financial services for state-licensed cannabis cultivators, processors, and retailers throughout the country.

Founded in 2010, NCIA represents nearly 2,000 member-businesses and tens of thousands of cannabis professionals committed to replacing criminal marijuana markets with a responsible and regulated cannabis industry.

Currently, our industry supports hundreds of thousands of jobs, tens of millions in tax revenue, and billions in economic activity. From November 2018 to March 2019, it is estimated that seven states that had taxed and regulated adult-use cannabis sales (Alaska, California, Colorado, Massachusetts, Nevada, Oregon, and Washington) collected more than \$1 billion in state tax revenue. However, per current federal law, cannabis remains a Schedule I drug under the Controlled Substances Act. This blocks state-licensed cannabis business and firms providing ancillary products or services to the industry from accessing banking services, forcing them to operate in an all-cash environment. This situation not only creates an unnecessary public safety risk, it poses an undue burden on state and local tax and licensing authorities, which are forced to take large cash payments. These taxes and licensing fees fund the enforcement of state marijuana laws as well as school construction, drug education activities, and infrastructure programs.

After nearly a decade of significant regulatory changes at the state level, now is the time to conduct a universal review of this federal framework and make changes that would foster greater productivity and transparency. Ending the conflict between state and federal cannabis laws will promote a sound and robust financial system that best supports the economic growth and job creation driven by the growing number of state-licensed cannabis businesses across the country.

Numerous cannabis-related bills have been making their way through the legislative process over the past few months. It's an exciting time for this burgeoning industry. Some of these bills protect state-legal businesses from federal interference. Others deschedule cannabis completely. Others codify social equity provisions that right past wrongs. While all of these bills are important and need to see the light of day, we have an opportunity in front of us to fix one of the most significant problems facing the industry, banking. While we should continue to strive for a more comprehensive approach toward marijuana reform, including

descheduling and federal regulation, we should not make perfection the enemy of the good. We can walk and chew gum at the same time. We can fix the banking problem and then move to myriad other important issues facing the industry. Let's get this piece done. Let's get this piece right. Let's get this piece behind us.

The Current Cannabis Banking Situation

To date, forty-six states, the District of Columbia, as well as Guam and Puerto Rico have passed legislation authorizing some form of cannabis for regulated medical or adult-use purposes and thirty-three states have enacted laws regulating the commercial production and sale of medical or adult-use marijuana. Eleven of those states, which include 80 million people, or nearly 25% of the United States' population, have passed laws allowing for the responsible use of cannabis for adults over 21.

Despite significant legal changes and advancement of the status of medical and adult-use cannabis across the country, most banks, credit unions, and financial institutions do not provide traditional banking services to cannabis-related businesses. These denied services include access to standard checking or savings accounts, the ability to receive loans and lines of credit, and the capability to accept common debit and credit cards. As a result, business owners often have no choice but to pay their employees, their federal and state taxes, and process every consumer purchase in cash, in addition to paying for armored trucks to transport the money.

In order to operate safely and successfully, businesses must have access to traditional financial services. For the cannabis industry, which conducts hundreds of millions of dollars in transactions across the majority of U.S. states, the lack of access to financial services creates public safety hazards, including an increased chance of becoming a target for robberies, loss of economic opportunity, and inability to retain workforce talent. Restricting financial services to licensed cannabis businesses also prevents the elimination of illicit businesses currently operating in the grey and illicit markets. The absence of clarity and direction by the federal government for financial institutions about how to provide banking services for state-legal, licensed cannabis businesses has undoubtedly created undue hardship for cannabis-related entities.

In 2014, to elevate some of the banking challenges associated with the cannabis industry, the U.S. Department of the Treasury's Financial Crime Enforcement Network (FinCEN) issued guidance regarding the conditions under which financial institutions may work with cannabis-related businesses. As a result, some credit unions and regional banks have been providing limited financial services to some cannabis industry businesses. However, the number of banks working with cannabis-related businesses remains marginal in the current context of an emerging global industry. In addition, before the House Financial Services Committee early last year, Treasury Secretary Steve Mnuchin confirmed that the department is reviewing the existing FinCEN guidance and does not want to rescind current guidance without having a replacement policy to address public safety concerns.

NCIA commends the Secretary for keeping the FinCEN guidance in place, especially as more states have passed cannabis-related legislation. However, the FinCEN guidance does not solve the fundamental need for financial institutions to facilitate ordinary banking access and services at standard costs for licensed businesses operating in compliance with state laws. Currently, a cannabis business attempting to open a bank account might be charged \$10,000 to \$1,000,000 in fees per year for excessive compliance and regulatory costs required for a financial institution to successfully follow obligations under federal anti-money-laundering laws. Moreover, many cannabis companies pay initial and annual state and local licensing fees necessary to operate, as well as tax rates of 60% or more because of an arcane provision in the federal tax code. Because of these excessive fees and taxes, the average cannabis-related business

often does not have the resources necessary to pursue traditional financial products common to other state-licensed industries.

Looking Ahead

The U.S. legal medical and adult-use cannabis market is currently estimated to be valued between \$10 and \$11 billion and is expected to grow to \$56 billion by 2025 with the possibility of employing one million individuals. However, the U.S. illicit cannabis market is currently estimated to be near \$30 billion. This adverse ratio between the legal and illegal cannabis marketplace is a direct result of outdated federal policy toward a responsible industry operating at the state and local level.

Recently, before the Senate Judiciary Committee, Attorney General nominee, William Barr, said he would not go after cannabis-related business in compliance with state law and urged Congress that the legislative process, rather than administrative guidance, is ultimately the right way to resolve whether and how to legalize marijuana. However, until the United States establishes a permanent solution, most-state permitted cannabis-related businesses will continue to operate in a cash-only environment and this will allow the illicit market to exist at unreasonable levels.

As we have seen in states with full adult-use legalization, removing restrictions on cannabis leads to greater financial accountability and transparency, which naturally combats the illicit marketplace. Addressing the challenges associated with a regulatory maze of conflicting federal and state laws will allow state-compliant entities to operate in a fully regulated environment and encourage the expansion of regulated markets, increase consumer safety standards, reduce access to minors and combat illegal trafficking throughout the country.

Conclusion

In conclusion, the cannabis industry has thoroughly evolved into a national commercial enterprise and NCIA expects to see more states enact and expand cannabis laws in the coming year and beyond. State laws that have replaced the criminal markets with systems that provide for the tightly regulated production and sale of cannabis to patients and adults over 21 are working to improve public safety overall -- but, the unnecessary hazards caused by outdated federal banking policies must be resolved in order for our communities to fully realize the public safety benefits of regulation.

We have an opportunity in front of us to fix this problem. While we will continue to work for broader reforms, including descheduling, NCIA strongly supports SAFE Banking. Let's get this piece done.

I want to thank the Chair, Ranking Member, and the Committee for your time to discuss access to banking services for cannabis-related businesses. This topic is important to all the members of NCIA and the entire legal cannabis industry. On behalf of NCIA, I encourage this Committee to move the SAFE Banking Act through committee and to the Floor. Thank you.



440 1st St. NW, Ste. 520, Washington, D.C. 20001

(202) 223-0101, Fax (202) 223-0250

Natural Products Association Comments for the record following the Senate Banking Hearing on 7/23/19

The Natural Products Association (NPA) appreciates Chairman Crapo, the committee, and the witnesses for addressing the issues surrounding cannabis-related businesses, banking regulators, and other current financial services issues. While cannabis is still federally illegal, the Safe Banking Act provides the opportunity for a pathway for hemp-derived products such as CBD to resolve similar issues when it comes to banking and financial services.

The NPA was founded in 1936 to promote and protect the unique values and shared interests of retailers and suppliers of natural nutritional foods and natural products, including conventional foods, medical foods, dietary supplements, and foods for special dietary use. The NPA is a non-profit 501(c)(6) association whose mission is to advocate for the rights of consumers to have access to products that will maintain and improve their health, and for the right of retailers and suppliers to sell these products. We are the oldest and largest trade association in the natural products industry representing over 1,000 members accounting for almost 10,000 retail, manufacturing, wholesale, and distribution locations of natural products.

When the 2018 Farm Bill passed, the legislation legalized hemp by removing it from the definition of marijuana under the Controlled Substances Act. Despite the legalizations of hemp, some businesses, including producers, manufacturers, and retailers continue to have difficulty gaining access to banking products and services. In particular, businesses involved in the sale of hemp-derived CBD products are particularly affected, due to confusion about their legal status.

NPA recommends amending the Safe Banking Act to confirm the legality of hemp and hemp-derived CBD products, and the legality of engaging in financial services with businesses selling hemp and hemp-derived CBD products, after the enactment of the 2018 Farm Bill. Additionally, to provide recommended best practices for financial institutions to follow when providing financial services and merchant processing services to businesses involved in the sale of hemp and hemp-derived CBD products.

The NPA looks forward to working with the Chairman and the committee to pass meaningful legislation.



July 30, 2019

The Honorable Mike Crapo
Chairman
U.S. Senate Committee on Banking, Housing & Urban
Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking, Housing & Urban
Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

I am writing to express my concerns about the unintended consequences of the SAFE Banking Act to allow the banking of federally illegal proceeds from the sale of marijuana. This bill does not address the health concerns presented by today's high potency marijuana. It would harm our nation's youth and, contrary to the bill's intent, would allow international drug cartels to gain an even stronger foothold in the marijuana industry. The SAFE Banking Act is an inappropriate and ineffective measure as our nation grapples with a devastating opioid epidemic.

The modern marijuana industry focuses on selling high potency products to heavy users. For example, 87% of the marijuana consumed in Colorado is consumed by daily or near daily users.¹ Many of these products also appeal to children with names like "Thin Mint Girl Scout Cookies".² The 10 states that have legalized recreational marijuana have the highest youth drug use rates in the nation.³ Youth are being driven to drug addiction and are experiencing mental health problems because of their use of kid-friendly, high potency marijuana.

Contrary to the intent of the bill, the SAFE Banking Act offers international drug cartels a new path to infiltrate the banking system. Cash from legal marijuana sales looks the same as cash from the sale of heroin, fentanyl and methamphetamine. Banks will be unable to tell the difference, meaning that cartels will be able to expand their money laundering operations. Marijuana dispensaries may also be the target for black market activity, as was the case in Colorado, where law enforcement seized 4.5 tons of finished marijuana products from a dispensary during a black market takedown.⁴

The SAFE Banking Act will only allow international drug cartels to expand their operations in the United States and will expose more American children to the dangers of drug addiction. This legislation is counterproductive as our nation works to overcome the drug epidemic. I urge the Senate Banking Committee to put public health before profits and reject the SAFE Banking Act.

Sincerely,

Arthur T. Dean
Major General, U.S. Army Retired
Chairman and CEO

¹ Colorado Department of Revenue: Market Size and Demand for Marijuana in Colorado (2017).

² <http://bigpotexposed.com>

³ <https://learnaboutsam.org/wp-content/uploads/2019/06/2019-Lessons-Final.pdf>

⁴ <https://www.justice.gov/usao-co/pr/fourty-two-individuals-arrested-one-largest-black-market-marijuanatakedowns-colorado>

Building Drug-Free Communities

Community Anti-Drug Coalitions of America

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Support the Secure and Fair Enforcement Banking Act of 2019

Dear Members of the Senate Committee on Banking, Housing and Urban Affairs,

We are heartened by the committee's decision to host a hearing on challenges to cannabis banking. In particular, we hope the hearing brings attention to legislation that would provide clarity and transparency to financial services firms that serve the legal cannabis industry, such as S. 1200, the Secure and Fair Enforcement Banking Act of 2019 (SAFE Banking Act), introduced by Sens Jeff Merkley (D-Ore.) and Cory Gardner (R-Colo.).

The legal distribution and use of medical marijuana are currently permitted under local law in 33 states and the District of Columbia, while D.C. and 11 states permit adult recreational marijuana use. Some banks and financial services providers are willing to serve this emerging legal cannabis industry. According to the most recent data from the U.S. Treasury Department's Financial Crime Enforcement Network, there were 493 banks and 140 credit unions serving cannabis-related business accounts as of the first quarter of 2019.

However, the potential for criminal and civil liability under federal law and banking regulations remains a stumbling block. As a result, only about 30 percent of marijuana-based businesses report using a depository institution. This has created perverse incentives and given rise to robberies and tax evasion.

If enacted, the SAFE Banking Act would prohibit federal banking and credit union regulators from sanctioning regulated lenders or limit their access to deposit insurance on the grounds that they provided service to legitimate cannabis businesses in jurisdictions that have legalized marijuana consumption. To be clear, the bill does not force states to legalize marijuana or in any way inhibit state regulation of the marijuana or banking industries.

According to a recent study, more than 210,000 Americans are employed in cannabis and cannabis-related jobs. In 2018 alone, more than \$10 billion was invested in the industry and nearly 65,000 full time jobs were created. Regulatory certainty for the financial services industry will help facilitate this nascent market.

Even where lenders are providing financial services to the legal marijuana industry, the compliance processes that currently would be appropriate to service this sector effectively are daunting and beyond what many smaller lenders could manage. Federal law is needed to provide guidance, clarity and a permanent safe harbor for depositories who work with state-sanctioned cannabis businesses.

Sincerely,

R.J. Lehmann, Senior Fellow, R Street Institute

Michelle Minton, Senior Fellow, Competitive Enterprise Institute

Brent Wm. Gardener, Chief Government Affairs Officer, Americans for Prosperity

Pete Sepp, President, National Taxpayers Union

Don Murphy, Director of Federal Policies, Marijuana Policy Project



Dear Senate Committee on Banking, Housing, and Urban Affairs:

7/22/2019

Physicians Families & Friends is an organization that educates on the harms of promotional marijuana policies. We are concerned that more harms, like an increase in mental illness including psychosis, chronic psychosis (schizophrenia), suicides, crime and more drug abuse will increase if the S1200 Secure and Fair Enforcement Banking Act of 2019 passes. We write to urge you to table this bill and similar amendments.

The marijuana lobbyists are currently trying to commercialize marijuana in Vermont. This banking bill will make it easier for these illegal businesses to manufacture marijuana in high-potency pot candies, gummies, sodas, and to market these kid-friendly products. The bill will provide access to banks and would radically increase investment in the marijuana industry, accelerating its transformation into the next Big Tobacco. Vermont does not need big companies investing in addiction and mental health economics for the following reasons:

1. The science is well established that cannabis is a causal factor for psychosis,
(We've attached a 1 pager for your convenience.)

Research on and Incidence of Cannabis-Induced Psychosis and Schizophrenia by Dean Whitlock

Since 1987 through last month, there have been hundreds of studies published in respected journals, documenting the link between marijuana use and the development of chronic psychosis, including schizophrenia. The research up to 2015 is clearly described by Sir Robin Murray, M.D. PhD., a psychiatrist and researcher at King's College, London. (Appraising the Risks of Reefer Madness, by Sir Robin Murray, M.D. *Cerebrum*, January 7, 2015.

[http://www.dana.org/Cerebrum/2015/Appraising the Risks of Reefer Madness/](http://www.dana.org/Cerebrum/2015/Appraising%20the%20Risks%20of%20Reefer%20Madness/))

In January of 2017, the National Academies of Science, Engineering, and Medicine released the results of an extensive review of the research into cannabis and concluded that "Cannabis use is likely to increase the risk of developing schizophrenia and other psychoses; the higher the use the greater the risk." (National Academy of Sciences, The Health Effects of Cannabis and Cannabinoids, Chapter Highlights, January 2017. <http://nationalacademies.org/hmd/~media/Files/Report%20Files/2017/Cannabis-Health-Effects/Cannabis-chapter-highlights.pdf>)

Since then, still more studies have added to the evidence. In March of 2019, the latest study examined almost 1000 patients and a similar number of controls in 11 sites across Europe and Brazil. The found that daily cannabis use was associated with a 3.2 higher risk of psychotic disorder compared with never users, increasing to nearly five-times increased odds for daily use of high-potency types of cannabis. These figures match those found in earlier studies. The authors where able to calculate that, if high-potency cannabis were no longer available, 12-2% of cases of first-episode psychosis could be prevented

across the 11 sites, rising to 30-3% in London and 50-3% in Amsterdam, the two locations where the highest potencies of cannabis were most available. (Di Forti, Marta et al. The contribution of cannabis use to variation in the incidence of psychotic disorder across Europe (EU-GEI): a multicentre case-control study. *The Lancet Psychiatry*, 5.19.2019 [https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(19\)30048-3/fulltext](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(19)30048-3/fulltext))

It is important to point out the differences between marijuana use and alcohol use in their impacts on psychosis risk. Whereas marijuana use triggers at least one symptom of psychosis in 12%-15% of all users (Thomas, 1996; Barkus et al., 2006; Smith et al., 2009)¹⁻³, alcohol does so in only about 0.5% (Perala et al., 2010)⁴. The conversion rate from all prodromal psychoses (onset of very first symptoms) to full psychosis is about 35% (Cannon et al., 2008)⁵, and from there the conversion to chronic schizophrenia spectrum disorders is 46% for marijuana-induced psychosis but only 5% for alcohol-induced psychosis (Niemi-Pynttari et al., 2013)⁶. Marijuana is therefore potentially much more dangerous than alcohol just in terms of its association with both psychosis and the potential conversion to schizophrenia.

¹ Thomas H. A community survey of adverse effects of cannabis use. *Drug Alcohol Depend.* 1996 Nov;42(3):201-7.

² Barkus EJ, Stirling J, Hopkins RS, Lewis S. Psychopathology. Cannabis-induced psychosis-like experiences are associated with high schizotypy 2006;39(4):175-8.

³ Smith MJ, Thirhalli J, Abdallah AB, Murray RM, Cottler LB. Prevalence of psychotic symptoms in substance users: a comparison across substances. *Compr Psychiatry* 2009, 50(3):245-50.

⁴ Perälä J, Kuoppasalmi K, Pirkola S, Härkänen T, Saarni S, Tuulio-Henriksson A, Viertiö S, Latvala A, Koskinen S, Lonnqvist J, Suvisaari J. Alcohol-induced psychotic disorder and delirium in the general population. *Br J Psychiatry*. 2010 Sep;197(3):200-6

⁵ Cannon TD, Cadenhead K, Cornblatt B, Woods SW, Addington J, Walker E, et al. Prediction of psychosis in youth at high clinical risk: a multisite longitudinal study in North America. *Arch Gen Psychiatry*. 2008;65(1):28-37.

2. Vermont currently has one of the highest youth use of marijuana in the country.

Marijuana Use Among Vermont High Schoolers Nearly one quarter of Vermont high school students reported using marijuana in the past 30 days in 2017. Lifetime use was higher – 37% reported that they had ever tried marijuana, and 6% had tried it before age 13.

http://www.healthvermont.gov/sites/default/files/ADAP_Data_Brief_Marijuana.pdf

3. A mental health crisis is rising with Vermont's kids.

Kids ending up in emergency rooms around the state are in crisis. From October 2017 to October 2018, 350 kids came through the University of Vermont Medical Center for psychiatric help. *"The need is going up but the capacity is sometimes pretty flat or sometimes going the other direction, so that just sort of sets up these horrible bottlenecks that we often encounter."* Dr. Rettew said, a child psychiatrist and medical director with the Vermont Department of Mental Health

<https://www.wcax.com/content/news/Kids-in-Crisis-Vermonts-rising-mental-health-demand-51188671.html>

*"The net effect of commercial cannabis sales on overall mental health will be negative...given the already strained resources for mental health and substance abuse treatment...A 2019 study from Lancet Psychiatry found.. "if high-potency cannabis were no longer available, 12.2% of cases of first-episode psychosis could be prevented" across the sites they studied (Di Forti et al., 2019)"*A 2019 paper reviewing multiple studies found that adolescent cannabis was associated with increased depression in young adulthood and **a tripling of the risk**

of a suicide attempt (Gobbi et al., JAMA Psychiatry 2019)" Sarah Squirrel, Commissioner, Depart of Mental Health <https://legislature.vermont.gov/Documents/2020/WorkGroups/House%20Human%20Services/Bills/S.54/Witness%20Testimony/S.54-Sarah%20Squirrel-Department%20of%20Mental%20Health%20Testimony-4-23-2019.pdf>

Dr. Rinehart, president of Vermont Chapter of the American Academy of Pediatrics, explains marijuana addiction has led to anxiety, depression, and psychosis. She describes 2 of her patients: *The adolescent who "smokes a bowl" every night "to help her sleep," but whose anxiety is now increased overall so she is withdrawn from family, can't get her homework completed, her grades suffer and her dreams of being a neuroscientist are gone, in a literal puff of smoke. This is what marijuana addiction does. Weekly marijuana use as a teen doubles the risk of developing anxiety and depression later in life. Or the frantic call from a mother whose son is picked up from college early because of marijuana-induced psychosis. "He's not himself anymore." ..With today's higher levels of the psychoactive drug THC (a 300 percent increase in potency since the late '90s), the rate of schizophrenia, acute psychosis and marijuana associated injury and overdose has increased dramatically.* https://vidigger.org/2019/01/16/jill-rinehart-dangers-teen-marijuana-use/?fbclid=IwAR0XAjv_JdPrOQ6A2MLXINGliaJJ3fd-X7jW06cn9w5Rscg2hzcScgNgW0g

4. **Vermont's Department of Mental Health warns the legislator that commercialization of cannabis will have a negative effect on their state.** Here is their statement and we've attached the fill document and press release.

It is our position, based on the review of the scientific evidence, that the net effect of commercial cannabis sales on overall mental health will be negative. We further note that this additional negative impact on mental health will come at a very vulnerable time for the state, given the already strained resources for mental health and substance abuse treatment services. The major costs that will likely be incurred as a consequence of increased cannabis use and increased cannabis use related problems could likely consume a significant portion of any revenue gained by taxation.

5. **The costs of commercializing marijuana out weigh the tax revenue.**
(see the attachments for the full report)

The RAND Report on the possible legalization of Marijuana in Vermont, which was presented to the Vermont legislature in January, was supposed to be a Cost-Benefit analysis that would enable a fully informed discussion of the pros and cons of legalizing recreational marijuana. Unfortunately, the report falls very short on the Cost side of the analysis.

The science of effective prevention teaches that *evidence-based interventions decrease problem drug use* but "**Commercialization is not good prevention**" - Lori Augustyniak, Coordinator Prevention Works! VT Vermont needs drug prevention, not drug promotion. This banking bill will increase drug promotion.

Thank you,
John Hughes, MD, and Kim Blake, MD
For the Physicians of Physicians Families and Friends

Robert Martin
CWAL, Inc.
robert@cwanalytical.com
851 81st Ave Suite D
Oakland, CA 94621

Please find a way for banks to accept our industry! Cash sales remain a constant and this process creates a great deal of security risk for our employees. Further, we have no credit building functions, loan capabilities, or investment opportunities being banned from traditional banking. We want to be legitimate and bank the same way! The current situation demands that we seek banking support using all sorts of nefarious routines and slight of hand with banks and isn't that the reason banking laws were established in the first place? A full service bank is something we all dream. Please hear our cry for help before someone gets killed!

Mara Meyers
The BeLeaf Company
mitch@beleafco.com
13378 Lakefront Drive
MO, 63045

I have been participating in Illinois and Missouri for several years in the medical cannabis space. It has been extremely difficult expecting our customers to bring cash in for their medication. It also has been very expensive to have our cash transported to a bank by a security company several days a week. All of this adds unnecessary and additional costs to medicine that is already not covered by insurance. Medical cannabis is a great option to harsh Pharmaceutical drugs. Please help us make it safe by providing banking.

Phil Gibson
AEssenceGrows
pgibson@aessencegrows.com
1281 Reamwood Ave.
CA, 94089

We make the equivalent of picks and shovels for the indoor farming business. We do not touch the cannabis plant but many of our customers in the USA are in the cannabis business. As a result of this relationship, our banker at the time Silicon Valley Bank, cancelled our account.

This created many complications for our business and a scramble to find a new bank that was willing to do business with us. This is silly. We run a real business making capital equipment and we need to be able to work with banks on routine payment processing, pay our taxes, and pay our employees.

Please correct this situation.

Colum Tinley
Discovery Garden
cpt409@gmail.com
409 Lane de Chantal
WA, 98368

I have owned and operated a legal cannabis cultivation and processing business for about 5 years. We do not have a bank account since the only banks in Washington offering services to cannabis businesses are credit unions that are a 1-2 hour drive away. Also those credit unions charge outrageous fees that prohibit small businesses like mine from being able to afford a bank account. \$750 just to apply for an account, \$250/month service charge, plus a percentage of every dollar deposited is simply robbery that no other business would put up with. As a legal business we need access to bank accounts with the same fees that apply to any other legal business otherwise we will continue operate as a cash business. It seems to me that many people believe everyone in the cannabis industry is stinking filthy rich but sadly this is not the case. In Washington State businesses are closing at a staggering pace because they simply cannot generate profits. As far as I can tell the only one getting rich from WA cannabis is WA State. With our greedy 37% excise tax plus 10% sales tax that's almost 50% tax which unfortunately leaves no room for small businesses to generate profits. We badly need access to affordable banking.

David Faulk
The Green Vault
greenvault1@gmail.com
365 NW State Ave
Chehalis, WA 98532

Three of our bank accounts have closed down. We end up dealing in cash, which is very scary when walking out of a delivery with large amounts of cash. We are easy targets. In addition, I can't get a business loan and have to resort to investors who want to take unreasonable large amounts of equity stakes in our businesses. We should have better banking laws and protections.

Phil Lord
Black Sands Ranch
plord519@hushmail.com
5985 Rd. H NW
Ephrata, WA 98823

In Washington state there are only about 5 or 6 options when it comes to "green" banking. We banked with Timberland Bank. At first they charged \$150 per month for a checking account. All deposits had to be through Pay-Quick. They charged \$600 per year and a handling fee of .5% of every deposit. This changed about 3 months ago when Timberland started to accept deposits. They then increased the monthly fee for a checking account to \$400 per month. We are a small mom and pop tier 1 grow with no employees. This expense is a huge burden on our business. I would urge the House to change the laws regarding funds from legal marijuana business.

MARIO CERETTO
New Era CPAs LLP
mario@neweracpas.com
3033 Fifth Ave #230
San Diego, CA 92103

Due to lack of banking available to my tax clients, I opened an escrow account at Wells Fargo to enable clients to deposit funds so that we can make tax payments on their behalf. Millions of dollars in taxes were paid to the IRS and state agencies to fulfill tax obligations of my clients ranging from income tax to payroll taxes. My account was flagged for suspicious activity and the Department of Homeland Security started an investigation. I was charged with structuring and spent 90 days in federal prison. The lack of banking outlets prevents taxes from being paid...as I tried to assist with tax compliance, a technical violation of the bank secrecy act was committed and became a life changing matter for me. Congress needs to address this NOW.

David Ward
NCI LLC
davew@olypen.com
P.O. Box 130
Quilcene, WA 98376

Access to Banking Services for Cannabis-Related Businesses is a must in America, There are billions of dollars in cash that is not being allowed to be put in banks, and there forth the IRS is not receiving taxes. In states where the sale of cannabis is legal not being able to use a bank poses an unsafe situation for the owners of said businesses. I strongly urge you to pass forward the recommendation to legalize banking for cannabis businesses....

Jeffrey Oberfelder
Oberfelder Holdings
ochelan@aol.com
120 Rolling Rock Road
WA, 98816

My wife and I own a 15.78 acre farm in Chelan, WA. We have been farming for 20 years on our family farm. We have been growing apples, pears, cherries, etc. 6 years ago we got a cannabis license to grow and process cannabis from WA state 502 initiative. We have 5 sons and a daughter that all rely on our income from our new cannabis business. We grow marijuana for the WA state LEGAL retail market. We love our new business venture, and are now going into our 6th year supplying the state compliant retail stores. We need action IMMEDIATELY to resolve the ridiculous banking constraints. My family has been suffering for 6 years because of the banking issues. There is no difference between cannabis and hemp, hops, grapes or any other agriculture plant. This needs to change. Please, please support the cannabis farmers that follow the rules and supply the WA state legal market.

Jenny Carbon
The Grass Is Always Greener
jenny@thegrassisalways.com
7505 West Lake Sammamish
WA, 98052

Lack of banking aka "normal business" has limited me from even being able to open my business. I have assumed personal debt in order to keep the opportunity alive and cannot take out a personal loan due to debt and/or owning a cannabis business. It's the single limiting factor for success in our industry. We are normal retail and need to be treated as such.

Bethany McMartin
bethanymcmartin@gmail.com
Olympus Horticulture LLC
123 Elwha Rd
Port Angeles, WA 98362

I am currently paying a fee of \$480 a month to have limited banking services with the only bank that is willing to bank for where my business is located. It's excessively higher than I pay for my other non-cannabis businesses. I would like better options for banking.

Shawn Wagenseller
Washington Bud Company
shawn@wabudco.com
28308 15th Ave NE, Ste B
Arlington, WA 98223

Our company is a self-funded mom and pop with family & friends working together to create products that result in over \$1.1 million of taxes paid to Washington State. We are at capacity and need to expand to meet demand and our business model.

We are at a stand still until we get business capital at common business rates. Hard money lending or investment that demands ownership are our only avenues and that does not pencil out. Our highly competitive markets allow for only so many slices of the pie.

Currently, we pay \$350 per month to a private bank for the privilege of depositing our checks and utilizing the bill payer system. All our other business paid <\$20/mo for the same common services. This money could be utilized in better ways.

We are responsible, hard working, entrepreneurial Americans striving for middle class status. We would love to be able to meet our demand, increase our bottom line and be able to provide health care for our employees. But we must grow to do so and need capital. Please reform the US banking laws on cannabis companies that are legal and licensed within their states.

Kirsten Curry
Leading Retirement Solutions
kirsten.curry@leadingretirement.com
200 W. Mercer St., Suite 504
WA, 98119

I administer 401(k) Plans (we are the compliance and government reporting folks). Cannabis companies can't sponsor 401(k) Plans because the banking institutions that custody employee contributions won't touch cannabis companies. This results in thousands of employees of cannabis companies being denied the opportunity to save for their own retirement. They should have the same opportunity to save to an employer 401(k) or other plan as any other employee does.

Ammon Ford
Gleam Law, PLLC
ammon@gleamlaw.com
613 19th Avenue E, STE 202
WA, 98112

I am a business attorney, and many of my clients are state law-compliant Cannabis businesses. Simply because we work with these businesses, my law firm recently had our bank accounts closed, including our firm trust accounts holding Washington State Bar Association regulated client funds. Unlike some of our clients, we were able to find another bank quickly without disrupting our services. However, our experience as an ancillary business is a glaring example of how pervasive and widespread the lack of access to banking is for these entrepreneurs--many of them have it much worse than us and that is not fair. Congress must do its job and enact the pro-Cannabis will of the people. Giving me and my clients reliable access to modern banking is an obvious and tremendous first step.

Sheldon Norberg
Trichometry
sheldonnorberg@gmail.com
420 Fair Haven Road
CA, 94501

I have worked in California's Medical Cannabis industry for over a decade, beginning with managing Harborside Health Center in 2006. By 2008 I was responsible for cash management which had me counting 50-100,000 dollars a day, but at least as we had a fortified location.

Leaving to enter the manufacturing space, which has had little if any legal protection, I am largely forced to operate in cash, and surrounded by businesses doing the same. Imagine the burden to maintaining a million dollar annual business in cash - all payments to vendors, payroll, etc counted and recounted, and delivered personally, putting myself, my staff, and my associates at constant risk. This is no way to run a business, or protect the interests of government entities as they try to partner in the legitimization of the industry. I hope you will do what is in your power to remove the impediments to our creating a robust and socially beneficial industry.

Philip Davis
Parahealth Inc
philip.j.davis@utah.edu
PO Box 581142
UT, 84158

In November, we launched a non-toxic, food grade solution for mold and fungus. In our marketing we mentioned that this would be effective in cannabis cultivation, but also a huge adjunctive to mitigate these problems in general agriculture. After two weeks, US Bank closed all our accounts without any warning, and confiscated our assets. We are still trying to recover from this precipitous and fraudulent action by US Bank. Again, note that we are not in any way related to cannabis production or marketing, but simply mentioned in our advertising that the product would also help in cannabis production.

Tina Morelli
Morelli Enterprises
tinampda@gmail.com
81 Oneil Road
WA, 98055

I am the owner of Morelli Enterprise's producer processor for legal cannabis in the state of Washington. The problem with the banking system is broken. Not only was I denied by Salal Credit Union (after they had kept my 26K check for over 30 days-- they claim not to take tier 1's), my bank account was closed down for 30 to 60 days. They withheld the funds making all of my bills late payments, overdraft fees and headache trying to correct it all. My Bank of America account was shut down without my knowledge. I received a letter in the mail after it already been done-- again with holding the funds longer than 30 days. I am trying to follow the law by the book. I listed it as agricultural because that's what it is! Chase bank as well shut me down (stating that they do not back businesses that are not federally legal). I am currently using pay quick . A bank that comes without a debit card or checks and can only be used for bills related to the business and payroll. As I am the owner, I cannot even pay myself ! This is a huge problem and has been from the start. All it is doing is hurting the companies that are following the law!

Steven Cinelli
 Growth Group
steve@growthgrp.com
 P.O. Box 2025
 CA, 94948

Legislation without thoughtful regulation lays the foundation for continued stasis. Note that many states have advanced the legalization of marijuana, but development and execution of respective state regulatory frameworks, such as in California, has been vacuous and ineffectual. While recreational legalization was approved in California during 2016, the following year was devoted to establishing a regulated marketplace, including implementing a tax regime. As seen, the anticipated transition out of the grey/black market into the "light" was completely overestimated, as were expected tax revenues. Certainly, good intentions, but the deployment was less than adequate, overly burdensome, and economically unfeasible. Reflecting further, California has enjoyed legal medicinal cannabis since 1996, itself a multi-billion-dollar market, and yet, nothing has been done to support this segment's needs for an economic infrastructure.

The issue of banking has surely been part of the ongoing narrative, and earlier "reliance" on core memoranda, has still failed to open the floodgates of financial service provision. While many view that this massive industry should be intoxicating for the banks, the cash-intensive nature, inconsistent monitoring requirements as an agricultural product, and the compliance rubric has stunted what is generally required for a growing economy, namely a financial system. There are other legal cash-intensive sectors, such as convenience and liquor stores, private ATM purveyors, even farmer's markets, which too have been limitedly received well by the banks, given the AML protocols. So, this is not just about moving darkness into the light, but really creating a model that addresses the needs and desires of many constituencies - cannabis industry participants, law enforcement, and regulators - and do so in an efficient, transparent and informed way, thereby affording the exigent support this economy requires. Passing legislation to allow the banks to do what they currently do, without fear of regulatory reprisal, won't necessarily become the panacea, given existing banking conventions. Like cannabis, banking is highly regulated, and the conflation of two heavily administered structures can be challenging, even further constricting.

But as the cannabis industry is developing, so too are financial services, with the flourishing of digital technologies, open banking and shifts in how customers are interacting with institutions, banks and others. There is a unique opportunity ahead to not only formulate a "fix" for the palpable pain due to the absence of cannabis banking, but to create a next-generation fin-services model to propel both these industries concurrently, negating many legacy and analog practices. Both industries are data-intensive, whether for compliance, safety or analytical reasons. Why not envisage a novel schema to support, even accelerate, the growth and value creation of the cannabis space, domestically and soon globally, with an informed "smart" financial platform? Beneficiaries are broad, and insights would be invaluable. This can be and should be a time to reassess old models and give rise to what could be.

As background, Growth Group has been organized to create a smart financial ecosystem for critical underbanked segments, particularly cannabis, so that such industries may evolve it to achieve their fullest potential. We would welcome an opportunity to discuss our vision and model. Thank you.

Patricia Dean
Wadsworth Control Systems Inc
patricia.dean@wadsworthcontrols.com
5541 Marshall Street
CO, 80002

This year we had to frantically search for a new bank because ours dropped us. We are a third generation family-owned business. We build environmental controls and curtains for greenhouses. My 86 year old father is in the flora culture hall of fame for changing the industry. Some of our customers grow cannabis for either recreational or medical use. We never touch the plants we simply provide the controls or curtains. If we are being dropped from our bank I think that's a sign of how far off base this system has become. Because of the increase in business, largely due to cannabis, we have doubled the size of our staff, many of the jobs are for our engineering team. I thought you'd like to hear this story. If you'd like to discuss this please call me at 303.424.4461.

Ryan McQueeney
Midway Dispensary
rmcqueeney3434@gmail.com
5648 S. Archer Ave.
IL, 60631

Midway Dispensary has been in operation since April 2016, serving medical cannabis patients in Chicago and the suburbs. We have operated as a cash only business without access to the financial system during the entire time we have been in operation. Aside from the unfairness of being a legal business while being shut out from the financial system, operating a cash-only business present obstacles not just to the business, but also our employees, vendors and patients. In order to pay taxes we must travel to the state offices to pay in cash. In order to pay vendors we have to obtain money orders. We pay employees in cash and our patients can only use cash. This presents issues that force us to expend funds on security no other businesses are required to expend.

Additionally, we have no access to financing like any other small business. We cannot access financing for things like increasing employee pay and benefits, improving our physical space, updating IT, research and development, investing in additional business opportunities, or contributing to the community.

Midway Dispensary is a retail store that provides a valuable service and product to patients who are trying to avoid opioids and other pharmaceuticals, who seek relief from everyday aches and pains, who want help sleeping without using addictive sleep aids, and who want to be able to purchase cannabis that is tested, labeled, and safe. Other than the product we sell having a stigma from 90 years of prohibition, we are no different than the retail establishments on the same block, except we cannot get access to the greatest financial system in the world. There is no reason to treat us this way.

Mark Passerini
mark@omofmedicine.org
Om of Medicine
111 S. Main Street
MI, 48104

We have served over 18,000 medical cannabis patients since 2010 and are now licensed by the State of Michigan. Over the past 8 1/2 years we have gone through 9 different bank accounts – this policy needs to change on the federal level! Being an all cash business puts us at an unnecessary risk and there's a public safety concern for the employees that have to make deposits. Simple things like employee benefits and payroll become extremely difficult to navigate. All we are asking is to be treated like any other industry, especially considering this substance is one of the least toxic substances known to man! Please support banking access for the legal cannabis industry!!

Manndie Tingle
Khemia
manndie@khemiamfg.com
4370 24th Street Suite H
CA, 95822

Our company is all female founded and run. When we are unable to utilize banks to store our money it puts us at significant risk for break in, theft, or being targeted by attackers. We regularly struggle with large quantities of cash management. It doesn't work well for us to carry suitcases of cash to our local tax office to pay taxes, or collect page sum cash payments from our customers. Our businesses are already forced into the less desirable parts of town because of the type of business we have. This leaves us as sitting ducks to be attacked or worse for what we have in our possession. Please allow us access to banking. Thank you.

Andre Robinson
The Robinson Group
arob55@gmail.com
1725 Druid Hill Avenue
21217, MD

My city has been devastated by marginalization and criminalization of its black and poor population. The emergence of this new industry offers an extraordinary opportunity to right the wrongs of the past. Now is the time to support its development by providing policies in banking, proper tax collection and sensible regulations. Do the right thing!

Kim Claxton
KC Financial Services
kim@kcfinancialsvcs.com
3385 Airways Blvd # 115
TN, 38116-3830

I provide full accounting services to the industry. One of my clients' biggest challenge is obtaining funding, as well as safe-keeping of their funds. They are concerned for their safety as well as that of their employees due to the large amounts of cash they have in hand due to the lack of banking services for cannabis businesses. I would really love to see this issue resolved across the nation.

Benjamin Fonseca
Allied Access Foundation Inc.
bfonseca78@yahoo.com
6157 N. Sheridan Rd. Suite 20K
IL, 60660

As cannabis legalization progresses. Many profits have been made off of the sick and elderly. We at Allied Access Foundation, owned and operated by patients and people with disabilities, was developed to ensure and securing entry into this very newly lucrative industry.

Ryan Kendall
Savage Venture Group
ryan@savageventure.com
806 Bayview Drive
Hermosa Beach, CA 90254

I am a consultant regarding compliance, operations, and CSR for permit writing within the cannabis industry due to the lack of banking options available to the industry there are several risks and costs that cannabis businesses have the burden of paying for that no other industry in the US has. A lack of banking available to legal businesses allows for black market activity to continue, endangers employees by having large amounts of cash on site, puts the business at risk of having its revenue stolen, and several other issues. Allowing legal businesses to bank in the US will be a major step towards reducing crime, increasing legitimacy, and making accounting and bookkeeping easier which in turn means more taxes collected by states and eventually the federal government. This also protects the consumer who usually has to enter shops with large sums of cash on them and puts them at risk of being robbed or worse. It is time for the federal government to support this movement and move into a new era which will benefit the nation, our economy, and the people.

Joshua Eisenberg
Universal Herbal Center, Inc d/b/a Pineapple Express
joshua@skyislandconsulting.com
5200 E 60th St
CA, 90270

Having been in the cannabis industry for over 7 years, I have seen first-hand the challenge that cannabis operators have had consistently over time. They WANT to pay their taxes but working in cash causes hours of extra time spent in accounting and the companies need to spend money on additional layers of security. This would be cumbersome to any business, let alone cannabis startups.

Now that California has reached a mature licensing and regulation structure, we are still fighting to get proper banking. I have encountered several businesses that are either maliciously or idiotically pitching their financial services to cannabis businesses that are clearly not legal. The industry needs clear places to bank. The banks need clear authority, regulations and frameworks so that more can expand their services to cannabis businesses.

Metrik Feurtado
Big Petes Treats
metrik@bigpetestreats.com
1560 Mansfield St #A
95062, CA

Hello. Our drivers deliver product and can collect as much as \$80,000 in a day. We do not have an armored delivery van so our drivers face significant risk from criminals who may find them an easy target. Banking would allow our drivers to deliver product and not touch cash. Safe banking is common sense.

Donna Gardner
Back porch
donna98801@yahoo.com
Wenatchee Ave
WA, 98801

My son is employed here. They have been broken into once. I worry about the amount of cash they have in the store all the time and that he has to be paid in cash. Make it legal for them to use banks !

Carol Roye
Jamaican Imports
jighealing@gmail.com
2305 Campbell Circle
CA, 94534

To avoid breaking banking laws for hemp and MJ income should be allowed to help Patients, veterans and anyone else who would like help through Herbal medication.

Erin Rulli
Alice & Fran LLC
emrulli@aliceandfran.com
222 N Rose St #308
CA, 91505

With the majority of US states having some sort of marijuana legalization it is imperative that the industry have access to legal, federally insured financial institutions. The significant personal and property safety issues related with all-cash transactions must be eliminated. Allowing cannabis businesses to participate in the banking system will create stability and investment opportunities while reducing the risk of fraud and tax evasion. I intend to serve the cannabis industry as a finance professional; knowing my clients have banking options is one of my first priorities. There is tremendous opportunity for growth in the industry, from adult-use cannabis consumables and cbd for pets to cannabis derived, life-saving cancer drugs and non-opioid pain management options. That being able to open a bank account would delay/derail any of this, in 2019!, seems irresponsible and unproductive.

Victoria W
Materia Medica Laboratories, Inc.
info@materiamedicagroup.com
3017 Halladay St
CA, 92705

I moved from food safety testing into cannabis testing. I did not expect that we would have such a hard time simply opening a checking account in order to do basic things like paying vendors and receiving payments from customers. In food testing there is no way we could have told our customers that we strongly prefer cash over check or card, but that's what many cannabis labs have to do. Testing labs are highly academic businesses and have no trafficking risk whatsoever, yet we are still treated as if we are illegal operations. It cannot be overemphasized that healthy and clean cannabis requires testing labs to exist, but testing labs are very expensive to operate, and that's especially true in the start-up phase. Testing lab owners need the ability to finance loans and lease expensive lab equipment, but when no banks want to work with the cannabis industry, the start-up costs become enormous obstacles. In the state of California, there are already too few testing labs open to support how many products need to be tested. This will continue to be a problem and a challenge for many reasons, but financial transparency should not be one of them. As far as cannabis businesses are concerned, testing labs should be the safest risk for the financial institutions to work with. If the testing labs are having this much trouble, everyone else is going to have an incredibly difficult time.

Michael Bird
Valentine Ventures, LLC
michael@valentine401k.com
550 SW Industrial Way, Suite 201
OR, 97702

Our current lack of banking for cannabis companies is dangerous, inconvenient, and illogical for everyone. While it hurts the cannabis industry directly, it also has significant negative ripple effects in all of our communities. It costs companies money. It puts people in danger. It incubates fear. It keeps Americans from retirement savings. Please strongly consider making a historical change for the better by providing access to safe banking to the cannabis industry. Thank you.

Ali Taghavi
Elevate Shasta
aztec farming@gmail.com
401 Berry St
Mount Shasta
CA, 96067

Please help us with this huge safety concerns, we have done everything we can to insure a safe product and safe environment for our customers, however handling cash for our expenses, Taxes and collecting taxes from other producers through our distribution obligation has become a huge liability and safety concerns for us. Please help with a solution and allow us to operate just like any other business services. Thank you again.

Leah Heise
4front Ventures
leah.heise@4frontventures.com
234 RIDGEWAY RD
MD, 21228

Not only has the lack of banking resulted in multiple issues for our employees (having the sheriff called on them in Massachusetts when attempting to cash an out of state check from a cannabis company, having to pay some employees in cash, not able to have immediate access to payroll), but I have also had my personal bank account shut down just for being employed by a cannabis company. Additionally, as a business operating in the plant touching part of the industry, we are subject to very costly checking account fees (\$2,000 plus/month/account). We are unable to take credit cards and can only take debit cards through an outside system with additional higher costs. This is a business issue and a health and safety issue for our employees and customers. It just isn't tenable.

Todd DeWitt
Leven
todd@levencbd.com
68A Washington St
CT, 06854

We strongly believe in the benefits of a natural product. From counteracting an opioid epidemic to relief from epilepsy to reforming our criminal system, it is a must for common sense reform. Our federal banking legislation will lead to a regulated system for states to implement and properly grow taxable revenue. It will allow the US to raise capital at a pace much greater than Canada and will help industries from farming to security to technology. We implore you to work towards a set of rules each state can implement and fine tune if they choose.

Robert Martin
CWAL, Inc
robert@cwanalytical.com
851 81st Ave Suite D
CA, 94621

Please find a way for banks to accept our industry! Cash sales remain a constant and this process creates a great deal of security risk for our employees. Further, we have no credit building functions, loan capabilities, or investment opportunities being banned from traditional banking. We want to be legitimate and bank the same way! The current situation demands that we seek banking support using all sorts of nefarious routines and slight of hand with banks and isn't that the reason banking laws were established in the first place? A full service bank is something we all dream. Please hear our cry for help before someone gets killed!

Marvin Otsuji
Aloha Aina
marvin.otsuji@gmail.com
1954 Piner Rd.
Santa Rosa, CA 95403

I can't believe that the process is so painful. Everyone in line wants more of paperwork, permit , rent, product, insurance. Well I'm ok with all of this but to pay all these fee and want to conduct banking and be forced into a cash only The allowance of credit cards would take a security element out of the entire industry. It's a changing culture why don't the banks change with it.

CHRISTOPHER HURTADO
nature contained, LLC
info.naturecontained@gmail.com
6306 Jefferson St
7903, NJ

Let's make it safer for the people conducting legal business in this industry. No need to put them in harm's way and make it difficult for them.

KATHLEEN KNUTSON
Cannabis Industry Journal/Kathy Knutson Food Safety Consulting LLC
dkathyknutson@gmail.com
1421 Argonne Drive
WI, 54304

Coming from the food industry, I am shocked that the cannabis industry is not supported in banking. I have heard stories of people delivering \$800,000 in cash to pay state taxes. Companies have to decide if they arm their employees. I saw first hand the service industries of vaults and armored vehicles being sold to cannabis companies. It is time to bring the business of cannabis to the banks and credit unions under federal jurisdiction.

George Lynch
Green Stem LLC
glynch@greenstemmi.com
23938 Fairview Ct.
Farmington, MI 48335

I am the owner of a Medical Cannabis Grow and Processing Company in Michigan. Our company has been pre-qualified by the State and we are just awaiting our full operating license once our facility is complete. Thus far, trying to navigate the murky waters of our national banking system has been ominous to say the least. I have been turned down/away from so many banking and credit union institutions in Michigan that I have lost count. All I am trying to do is establish a legal/legitimate business in my home State. However, with zero access to proper banking/financial institutions, it means that I am running a rogue operation. It also means that not only business but my family could be put in harm's way with large quantities of cash on our premises. Please make sure Washington remedies this terrible situation. Isn't about time that our government wakes up and realizes that cannabis has been unjustly demonized and unfairly regulated by old time corrupt politicians with a specific agenda of persecution. Cannabis is medicine, it is legitimate (in Michigan) please use your power to erase this stigma and wrongheaded thinking in DC by supporting the upcoming hearing (and hopefully a Bill) for Banking Access to the Legal Cannabis Community.

Melinda Kadinger
Smokey's
admin@smokeys420.com
2515 7th Ave
CO, 80631

The banking issue is a major health and safety concern for employees of this industry as well as the local community.

Stephen Madigan
 Kidder Mathews
smadigan@kiddermathews.com
 1 Park Plaza Suite 500
 CA, 92614

I am a commercial real estate broker with 20 years of experience in Southern California. Over the last 2 years I have represented both landlords, tenants, buyers and sellers in commercial real estate. The total value of transactions to all parties are estimated to be worth \$50M which is a small piece of the larger Orange County/LA Market. The banking problem for all parties is far-reaching and is positioned to be either the largest hurdle or the strongest facilitator of growth for the cannabis industry. Here are a few of the problems these parties face when trying to lease or purchase real estate in the cannabis industry.

Tenants cannot provide banking history or credit history when trying to lease, therefore they are treated as a high credit risk and must provide hundreds of thousands of dollars in security deposit and prepaid rent. This money which could be used to grow the business is tied-up by landlords because of the lack of banking.

Buyers of commercial real estate cannot secure "market" loans or even SBA loans which their peer industries enjoy. Instead of securing a 4.1% loan with a 10% down payment amortized over 20 years, they have to borrow at 9%-15% rates, interest only, due in 3 years. This is one step above predatory lending terms.

Tenants often have to pay rent with cash and therefore cannot find a landlord to accept cash. A landlord will sign a lease and later find out their tenant must pay rent with cash and after several months, the landlord's bank will not accept the cash. Both parties are fearful, both parties do not have real banking solutions and the lack of banking has been the single biggest hurdle to growth, second only to the removal of cannabis as a Schedule 1 drug.

David Hopkins
Bad Kitty Clones
omykiss1953@gmail.com
P.O.Box 3107
CA, 93613

NOT securing safe banking for Cannabis Businesses does not promote public safety and provides circumstances for theft and assault. As a consultant and T.C. lab, I am at risk whenever at the facility or on location with clients.

Maureen Nolan
Akule Street LLC
akulestreet@gmail.com
2000 Roza St.
WA, 98953

Operating in the legal cannabis business in Washington state is very difficult due to the many regulations the State requires us to operate within. Those of us in the legal cannabis business work hard to follow the rules and meet all of the requirements demanded of us. To that end, we invest our efforts to build legitimate businesses that contribute liveable wages to the communities we operate in and without legal banking, the cannabis business is susceptible to a black market that we would all like to see gone. Please allow banking access to legal cannabis businesses.

Tara Nielsen
Clandestine Gardens
tara@clandestinegardens.com
5410 Saxon Rd
Acme, WA 98220

For our small farm to remain profitable and employ people the help of banking without having to jump through every loophole would be beneficial. The IRS wants to be paid, but from a bank account that either costs us tens of thousands of dollars a year to have or penalties because they don't want cash, and so on. Let's get right on this issue so we also aren't being taken by other banking systems who do let us bank there. We pay enough in taxes, just give us a bank to use to do so.

Sam Tracy
 4Front Ventures
sam.tracy@4frontventures.com
 5060 N 40th St Suite 120
 Phoenix, AZ 85018

Thank you for the opportunity to comment on the SAFE Banking Act, which would allow state-regulated cannabis businesses to access financial services like countless other businesses in the country. As an experienced consultancy and multi-state operator of cannabis businesses, we at 4Front believe this bill would be a major benefit to state governments, cannabis businesses, and most importantly, the medical marijuana patients we serve.

As of this writing, 32 states have passed laws allowing for the production, sale, and consumption of marijuana for medical purposes. Nine of those states also allow for the sale of cannabis to all adults over 21 years of age. While the federal government has allowed these states to regulate cannabis within their borders, federal prohibition has led to a great deal of confusion and inconsistency, which has slowed down or even halted some of these programs.

For example, while West Virginia adopted a medical cannabis law in 2017, the state has still not licensed any businesses to produce or sell cannabis because of the lack of banking services available for such businesses. West Virginia Treasurer John D. Perdue is working with the state legislature to create a workable system so that the state's program can become operational, but these significant delays have caused incalculable harm to patients who are unable to obtain the medicine they need. This has also prevented a great deal of investment, job creation, and other forms of economic growth that would benefit the entire state.

Even when states can get their systems up and running, patients are still harmed by the federal prohibition on banking services. While most dispensaries can obtain local banking services that allow them to accept debit card transactions, all major credit card processors operate nationally and have therefore refused to work with the cannabis industry. This prevents medical marijuana patients from using credit cards to purchase their medicine, despite being able to use credit cards to purchase any prescription medication at any pharmacy.

This lack of banking access has harmed businesses ability to raise much needed capital to build out their cannabis cultivation, production, and retail businesses. In any other industry, the owner of a business granted a license with limited competition, as is the case in most legal cannabis states, would be able to access bank loans and other institutional lending to fund their start-up costs. With that not available in the cannabis industry, license owners are forced to take investment from individuals that is usually highly dilutive and potentially leads to loss of operating control, or if they can find lending, it comes at usurious interest rates. This disproportionately impacts smaller mom-and-pop operators, who typically do not have access to high-net-worth individuals capable of cutting checks for hundreds of thousands or millions of dollars, which is what it often costs to get a cannabis business off the ground.

Finally, this lack of federal clarity hurts cannabis businesses and their employees. In most states with active medical marijuana programs, there are very few banks that are willing to work with the industry, making it difficult to start a new business. Because there is such little competition, banks often charge exorbitant fees for basic services, sometimes charging thousands of dollars per month just for a simple checking account. Similar businesses, such as pharmacies (for medical marijuana programs) or liquor stores (for

adult-use programs), do not face such steep costs for the same services. This makes it very difficult to successfully operate a state-regulated cannabis business.

Even employees of cannabis companies are often impacted by the lack of guidance from the federal government on banking. Just last year, shortly after then-Attorney General Jeff Sessions rescinded the Cole Memo, one of our employees was rejected for a mortgage specifically because he worked for a cannabis-related company. While the bank eventually allowed him to be listed on the title of his home, they would not consider his income towards qualifying for the mortgage out of an abundance of caution. If he was supporting his family alone rather than with a spouse who also worked full-time, he would not have been able to become a first-time home-buyer, which the federal government otherwise encourages.

The SAFE Banking Act would fix these problems by providing absolute clarity from the federal government on banking cannabis businesses. States will be able to proceed with implementing their programs, medical marijuana patients will have more flexibility in paying for their medicine, cannabis companies will have fewer hurdles for operating in a safe and compliant manner, and their employees will not face any undue burdens for buying a home or obtaining other financial services. We urge you to pass the SAFE Banking Act as soon as possible. Thank you.

About 4Front:

4Front Ventures is a retail and brand development company in the U.S. cannabis industry. It has developed a national platform that consists of a multi-state footprint, including its network of Mission-branded retail operations and associated production facilities, and a far-reaching network of relationships developed during its long history in the industry, beginning with its founding in 2011 as one of the first professional consulting firms in the sector.

Lloyd Stiassny
Eden Management Group, LLC
lloyd@edenalaska.com
6511 Arctic Spur Road
AK, 99518

Honorable Chairman and Members of the U.S. House Committee on Financial Services. My name is Lloyd H Stiassny and I am the owner and operator of a legal Cannabis business in the State of Alaska for the past 18 months. I own and operate two (2) State licensed retail stores and a licensed cultivation facility to support them. We currently employ over twenty (20) full time employees in living wage jobs. Our customers are broad based and mainstream Alaskans who thank us every day for the ability to purchase cannabis in a legal and well regulated environment. The cannabis industry is in the early stages of growth at a State level as well as Nationally. The economic value is measurable today and projected growth in the coming years is significant. Global sales are expected to exceed 16.9 billion in 2019, a 38% increase. The industry is creating and supporting job growth in numerous industries including, agricultural, manufacturing, and retail. The private sector investment is and will continue to be a long term investment in our economy and infrastructure. Tax revenue will continue to grow as additional legal markets open throughout the Country.

Current Federal regulation(s) limit and constrain the industries growth. Banking, access to capital markets, elimination of 280e provisions of the tax code, will allow the industry to continue to achieve economic growth with vital reinvestment in jobs, communities, public safety and education. Access to banking is fundamental for any business and cannabis is no exception. By allowing business owners access to banking and tax reform the industry will have an opportunity to operate more efficiently, support long term employment and continued community investment.

The Cannabis industry is committed to being a contributing member of a vibrant national economy. We thank you for your consideration toward implementing important industry changes that will help all of us achieve this goal.

Sabrina Fendrick
Berkeley Patients Group
sabrina@mybpg.com
1440 4th St, ste D
CA, 94710

Berkeley Patients Group is a Berkeley-based, California state-licensed, locally authorized dispensary as well as the oldest, continuously operating cannabis dispensary in the country. We pride ourselves on having set the standard for responsible, compliant cannabis operations around the country.

Since our founding in 1999, we have prioritized maintaining a safe operation following standard business practices, especially when it comes to cash handling. Federal laws have created an inconsistent, unstable, and at times dangerous situation. Regardless of our state compliance, we have been removed from well over 30 banking institutions.

We seek and request to be treated like any other business with the rights and privileges that come with being recognized as a legitimate industry. It is the federal prohibition and financial roadblocks against cannabis that have kept us from achieving this goal. We encourage the committee to consider relief that will rid us and all legitimate cannabis businesses of these handcuffs so that we can ensure the industry has access to safe, sustainable banking solutions.

Dottie Lulick
MJIC
dlulick@gmail.com
5800 S. Eastern Avenue #300
CA, 90292-5953

Opening up the legal banking industry will strengthen public safety. Most violent burglaries, embezzlements, and even kidnappings are happening due to large amounts of cash exchanged. Also, these legal businesses are paying taxes yet have no access to loans or credit card payments. Please pass this bill to help our industry come out of the darkness and establish legitimate, legal cannabis companies.

Jessica Billingsley
jessica@mjfreeway.com
MJ Freeway
1601 Arapahoe St Suite 900
CO, 80202

The SAFE Banking Act of 2019 would provide businesses ancillary to the cannabis industry, like MJ Freeway, a safe financial space to operate in. We are a company that ensures cannabis regulatory compliance and this would be the first time we would be afforded banking protections. As the memo clearly points out, legal cannabis operations exist in most states. This is the norm, and our industry should be operating within the proper financial infrastructure just as any other regulated industry. I applaud the committee, Chairwoman Waters and Colorado's own Rep. Perlmutter for their leadership for sound and anti-discriminatory business practices.

The current banking issues faced by the Cannabis Industry in the U.S. are forcing major restrictions on one of the fastest growing industries in the country. MJ Freeway's clients cultivate, manufacture and dispense cannabis products and are forced to operate mostly with cash which has huge security concerns along with major inefficiencies in completing all transactions relating to their businesses. In what other legal industry are you forced to pay your taxes, rent, payroll, utilities in cash?

From an international perspective, the US is the only country in the world that is regulating legal cannabis and does not provide a framework for traditional business banking. For our country to become a world leader in this industry, it is imperative that we provide our local businesses the opportunities to compete on an international stage.

The Safe Banking Act of 2019 would not only allow existing legal cannabis businesses to operate as any other business from any other industry in the U.S., but it will provide the opportunity for American businesses to expand and become world class leaders in this industry.

Dan Hentschke
dan@cltcbd.com
Charlotte CBD
2419 Central Ave
NC, 28205

The current situation with banking and cannabis, or should I say the lack of banks doing business with cannabis related businesses is a huge problem. Like any other industry, at the end of the day we are simply selling a product. My company and I have already been through three different banks, we have had 4 different credit card processors. 2 of the 4 processors shut us down with absolutely no warning, even though we were told when we signed up for services that this would not be an issue. We were transparent with everyone of these companies, and later found out some of the representatives from these banks had not been so honest. They covered up what we do, they didn't want the underwriters to be aware of the type of business we were running. It behooves me to think that albeit we run a legitimate business, right on a main road in Charlotte, pay LOADS of taxes into our city, but banks didn't want to or weren't allowed to handle our money. Alcohol companies have no problem with taking payments or being accepted by banks, because it's "legal". What we are doing is also legal, yet I have had to run around with 10s of thousands of dollars on my person to get money moved from one bank to the next. Like I'm some sort of criminal who is required to put myself into a dangerous position. People in this business from cultivation to retail sale should not have to incur these types of risk. It's ignorant, and quite frankly just not ok. Hopefully this testimony is in with a large stack of the same pleas for help and regulation in fixing this situation. I ask that if anyone's eyes cross this short read to make changes. Ask yourself: "Why Not?" And let's make moves for a better future in banking and the cannabis industry.

Lynn Wubbels
lynn@askmycpa.com
 Wubbels & Duffy, Certified Public Accountants, RLLP
 999 West Taylor Street, Ste C
 CA, 95126

We are a CPA firm service provider to various cannabis business in Northern California. I can advise you from years of practical experience that the legal Cannabis sector is severely challenged by the lack of banking capability. It is difficult to operate a business in today's economy without a bank account as many transactions such as payroll, income, sales, and cannabis excise taxes; certain vendors, utilities, licensing, and a host of other transactions require a bank ACH paper check or electronic funds transmission. Bringing a briefcase full of paper currency to pay a tax, fee, or vendor is not a practice to be furthered by discriminatory banking rules. Even with those briefcase currency payment practices, cannabis businesses typically must play musical banks when a bank compliance officer makes the decision to close an account.

I can cite a personal example of banking's aversion to currency deposits. As an accommodation to the cannabis sector and its banking challenges, our CPA firm accepts fee payments in currency. As a result of our currency deposits, we had our bank account closed because in one 12 month period we deposited less than 5% of fees received in the form of currency and had to find another bank. It is ironic that we routinely arrange for clients to make appointments with IRS to pay taxes with currency. So on the one hand, federal agencies will accept and deposit currency with impunity, while non-cannabis touching businesses do so at the risk of losing their banking capacity.

A great deal of challenge and chaos ensues around this lack of banking. Frankly, I fail to understand the reasoning for continuing to force this disability on the nascent legal cannabis sector now operating in some 33 states. That 2/3 majority statistic alone argues for recognition of what is arguably an organically growing national public policy. It is therefore incumbent to reset many of the archaic challenges to this sector that the federal government continues to pursue.

As a practical matter, having to retain large currency balances as a medium of exchange results in diminished accountability and internal control which invites risk for armed robbery, theft, conversion, and skimming. It is in the national interest to legalize and regularize this industry and bring it out of the shadows. To provide banking for state sanctioned legal cannabis touching enterprises is smart government and a step in the right direction toward a total legal cannabis federal franchise. Alcohol Prohibition, while well-intended, did not work as we learned from the criminal repercussions and societal damage from the Volstead Act.

While the world may be better off without alcohol it is very possible that it will be a better world with fully legal cannabis. That is to say that the many benefits of cannabis may outweigh its detrimental effects. This cannot be said for other drugs, alcohol, and tobacco.

Laurie Danzuka
laurie.danzuka@wstribes.org
 Warm Springs CP Enterprise
 OR, 97761

A tribally owned business in Oregon needs fair banking access to provide revenue and jobs to the tribal membership. The Confederated Tribes of Warm Springs announced that they would be developing a cannabis project and subsequently current bank accounts (US Bank) were closed for the tribal government and its affiliated enterprises. At the mere mention of entering the market and not yet operational. Now the tribal enterprise has decided to produce hemp since the Farm Bill passed and the enterprise is still being denied banking services from "cannabis friendly" credit unions and our local bank. This is due to the fact that the federal regulations are unclear on banking with cannabis companies. Since the tribe's are a sovereign nation and not subject to state law we have developed an agreement with the state and incorporated a tribal regulatory commission (Warm Springs Cannabis Commission) with legal codes and requirements as strict or more strict than the state. The state does not license our project through OLCC or ODA and now we are being denied banking because we are not licensed through the state. The Warm Springs Cannabis Commission would issue all licenses and permits for the cannabis operations. If tribe's were included in negotiations and language surround the cannabis industry we could address this policy gap. So now we are at a further disadvantage because our production facility will be located on tribally owned property. In our due diligence we negotiated an intergovernmental agreement with the state and negotiated a state tax rebate. The State of Oregon U.S. Attorney Billy Williams (the federal authority) has also been in communication with our legal counsel and does not have any concerns with our regulatory oversight. Even with all the work for the past three years to get our cannabis project started our access to banking has not improved. The other banks that I have contacted that specialize in cannabis banking demand two years in business and credit checks on any person in management and high maintenance fees for each separate service (checking, deposits, wire transfers, money orders). It is imperative that the enterprise go operational to capitalize on the hemp market and provide jobs for the tribal membership. If we have to be a cash only enterprise that will cause other issues such as security and theft. Offer fair and safe banking to the cannabis industry because it is causing undue burden to get our project started. As a tribal entity we already have to negotiate with the state and now have further hurdles in dealing with banking due to us being located on a tribal reservation. This limits fair access to us as a minority owned business based on our status as a sovereign nation with the Oregon borders. Oregon legislators are attempting to close the policy gap, but this banking issue needs to be addressed/corrected immediately.

Kristen Klawitter
kristen@humboldtcannaco.com
 Humboldt Canna Co
 799 H. Street, PO Box 4242
 95521, CA

I'm begging you to change the laws surrounding cannabis banking. We have a small farm in northern Humboldt County, California. We bought the farm and grow legal, medical grade cannabis so that we can make medicine for people who need it most. We have lost so many family members to cancer over the years and having discovered that cannabis can fight cancer, as well as it's horrible side effects, we bought this farm to grow and make that medicine. We've successfully treated family members and friends with a full spectrum whole plant extract called "RSO", made from our cannabis plants. This oil has literally saved lives, and put 3 family members/friend's cancer into REMISSION, with no other treatment, only the RSO we made. We want to provide this medicine to more than just our family and friends, we want to get this RSO out to the entire country- hopefully the entire world. We can't do that successfully until many issues/laws are cleared up or changed. One of the biggest problems we face is our banking. We have had our bank account shut down 5 times now, because we are in the cannabis industry. We are 100% legal and compliant with the county of Humboldt, and the State of California- which was no easy feat due to the excessively stringent laws, fees and processes required to do so. We have made it this far though, and need to continue to make it, so that we can help so many of the people out there fighting cancer and other diseases. We can't do it successfully or easily unless the banking laws are changed. Cannabis is just a plant, but it's a very powerful, magical one. It is quite literally harmless, just the opposite in fact. It has helped so many people, and we need to continue to help get this plant out there. The banking laws surrounding cannabis need to be fixed, it's just a plant. Alcohol isn't regulated to the extent of cannabis, and alcohol kills people on a daily basis. Cannabis has never killed a single person ever. We beg you to make it easier to pay for cannabis and cannabis products, please help us to get our medicine out there to people who desperately need it. Thank you for taking the time to read this!

Khurshid Khoja
khurshid@greenbridgelaw.com
 Greenbridge Corporate Counsel
 1215 K Street, Suite 1700
 CA, 95814

My name is Khurshid Khoja, and I serve as the Vice Chair of the NCIA Board, and have previously served on California State Treasurer John Chiang's Cannabis Banking Working Group. While I operate a law firm, my bank account has been shut down previously for refusing to disclose my client's information without their consent. A full account of this incident was first published by Law.com, and reprinted elsewhere as well. See "Cannabis-Industry Lawyer Raises Questions After His Bank Terminates Account" at <https://finance.yahoo.com/news/cannabis-industry-lawyer-raises-questions-110520186.html> which I've also pasted below. Thank you for considering my written testimony.

 Cannabis-Industry Lawyer Raises Questions After His Bank Terminates Account

ALM Media December 28, 2017

Khurshid Khoja says he tries to play by the rules. The Greenbridge Corporate Counsel founder advises state-legal marijuana-related businesses. He knows the sector they all work in is legally murky. While California will roll out a licensed recreational market just days from now, the federal government still considers marijuana an illegal drug. Khoja said he operates by certain business principles. His clients do not pay in cash. Deposits into the law firm's state bar-required trust account are identified by their source and visible to the bank. Every client must comply with Obama-era federal guidance designed to minimize any federal scrutiny. Khoja said he was surprised when his bank, Umpqua Bank, this fall started demanding information about clients. Were they in direct contact with marijuana plants? What were their names? How much business did Greenbridge do with them?

After Khoja asked for more time to get his clients' consent to release that information—he said the bank gave him two business days to do so—Umpqua said it was closing his firm's accounts in 30 days. "Our first duty as attorneys is to our clients and the ethical rules that apply to us," he told The Recorder in an interview. "We are licensed by the state and it's our duty to protect confidentiality and to keep our clients safe." He added: "We can't have banks interfering with that." As California's green rush is set to begin next year, Khoja's experience offers some perspective for lawyers who are in the industry—and those who want to take part. Marijuana dispensaries and growers have historically struggled to find banks willing to open and maintain accounts for them. That struggle can extend to companies providing services to those businesses, including attorneys. Calls and emails by The Recorder to Umpqua Bank's media office were not returned. Despite projections of a \$7 billion state marijuana industry, major banks and credit unions are still wary of attracting the scrutiny of federal regulators if they accept deposits tied to cannabis-related businesses—even those that never touch a plant. That puts lawyers in a quandary. Abide by professional requirements with escrow accounts and banks may start asking questions about clients and their money. Maintain ethical duties to protect client information and banks may dump your account. Large firms that have big-dollar, long-term relationships with banks may not have a problem if their "regulated industries" practices constitute a tiny fraction of their work. Smaller shops that openly cater to marijuana clients are taking a much bigger risk, according to lawyers who have clients in the cannabis industry. "Marijuana attorneys finding themselves excommunicated from their banks are incapable of paying staff, taxes and utilities," said Steven Schain, chair of Hoban Law Group's financial service and banking practice. And if their banks drop them, they could be stuck with only a cashier's check representing their clients' escrow

account deposits—with no other bank willing to accept them—in violation of their fiduciary duty, he said. The U.S. Department of the Treasury's Financial Crimes Enforcement Network in 2014 advised financial institutions they can serve marijuana-related businesses and still comply with federal Bank Secrecy Act obligations if they follow certain compliance guidelines. As of June 30, 390 banks and credit unions across the country reported providing services to marijuana-related businesses, according to federal records. The number has risen steadily since 2014 but still represents just a small fraction of the total number of financial institutions in the U.S. Many of those banks act only as a depository for marijuana clients, charging thousands of dollars in fees each month while offering only a few additional services, such as lending, that are provided to other businesses.

California explores banking options.

California regulators have explored options to bank the industry, from creating a public institution to setting up a network of depositories that are willing to accept marijuana funds. The ideas have yet to catch fire with major banking institutions. "We hear all these proposed solutions being offered up" by state officials, said Beth Mills, spokeswoman for the California Bankers Association. "Really, the solution is at the federal level."

The State Bar of California offers little specific guidance to attorneys in the cannabis field. Regional bar associations in Los Angeles County and San Francisco in 2015 issued opinions that attorneys may ethically represent state-legal medical marijuana enterprises within certain parameters. A paragraph in the proposed rules of professional conduct, now awaiting state Supreme Court approval, offers similar ethical guidelines for attorneys. But the bar has offered no advice for lawyers trying to hang on to professionally mandated bank accounts. Chief Justice Tani Cantil-Sakauye recently told reporters that a Judicial Council committee will likely handle any complaints about marijuana-related litigation, licensure and business issues. The council could then consider policy changes or possibly supporting legislation "to help clear up this area." "It's going to be a quagmire where we are and to what extent the federal [government] seeks to enforce its laws in California," Cantil-Sakauye said.

'Your business isn't welcome.'

How often banks boot lawyers like Khoja who provide legal services to marijuana clients is difficult to say. The names of banks willing to do the federally mandated work to vet cannabis customers—or simply not ask probing questions—circulate quietly among those in the industry. "It's definitely frequent that they kick marijuana businesses out," said Brian Vicente, a partner in Vicente Sederberg in Colorado and a veteran of marijuana legalization efforts in that state. "And it's definitely not uncommon for them to kick out lawyers who work with marijuana businesses." Vicente said he's been dumped by three banks since he started practicing exclusively in the cannabis sector. "It's honestly humiliating," he said. "You're told your business isn't welcome there." Khoja first suspected trouble when employees at his Umpqua Bank branch in San Francisco started asking this fall about his volunteer service on the state treasurer's Cannabis Banking Working Group. For a year, the group, which included cannabis industry representatives, government officials and bankers, studied the problem of marijuana businesses' lack of access to banking. The group issued a report in November seeking more research into several issues. Not long after the questions started, Khoja said he got a questionnaire from Umpqua Bank's Sacramento office. Executives wanted to know detailed information about his marijuana clients, including their names, addresses and activities. In a letter to Umpqua, a copy of which was provided to The Recorder, Khoja said he could not reveal some of the information sought by the bank without client consent—something he said he may never be able to obtain from them and certainly something he could not obtain in two days. Khoja instead asked bank

officials to identify any specific deposits that troubled them so he could try to get information from those clients. He noted the rules he requires his clients to comply with, his work with the National Cannabis Industry Association and his efforts to change federal laws that scare banks away from the state-legal marijuana industry. "I hope you agree that Greenbridge is the type of client that Umpqua should welcome and support, rather than subjecting to unreasonable scrutiny and disclosure demands," he wrote. Days later Khoja received another letter from his bank. "Umpqua Bank has determined that maintaining your deposit account relationship is no longer mutually beneficial and has decided to exercise our right to terminate your banking relationship," according to the letter, also provided to The Recorder. The letter offered no explanation. Umpqua gave Khoja 30 days to find a new bank before it closed his two accounts. Khoja said he managed to find another financial institution, which he declined to identify, to take his business before the one-month deadline arrived. He said he does not see a solution—no lasting one anyway—to his and other professionals' banking challenges until Congress acts to ease banks' fears. "The salient point here is attorneys need to be able to do their jobs and still protect attorney-client privilege," he said.

Heather Whiles
heatherw@maconhaservices.com
Maconha
1001 Bridgeway #520
CA, 94965

I currently advise manufacturers in the California cannabis industry. I have 12 years of experience in banking and know for a fact that the current banking system allows businesses that have a far greater negative impact on society to safely bank, for example, the pornography industry or the weapons industry. I also believe that if Congress is concerned about how the cannabis industry will impact society isn't it more beneficial to have more data points to monitor that impact, as in oversight of the flow of funds in the industry. The amount of cash that is currently outside of the banking system will become a breeding ground for crime and violence. Please allow business owners in this industry the chance to create and manage businesses with the resources given to other industries.

Susan Griffith
susan.griffith1@yahoo.com
Certified Alternative Medicine Providers, LLC
244 Fairway Green Drive
MO, 63368

Banking is a fundamental and necessary facet of any industry and any business. 32 States have now legalized some form of Cannabis, yet it remains illegal for Federally Regulated banks to have ANY involvement, and State regulated banks are extremely reluctant. As with any other new and developing business, that needs to hold cash from business generated revenue, pay employees, pay taxes, pay service providers, it is ESSENTIAL to have the support of a bank for safety, security and success. To exclude Cannabis based businesses, who are attempting to form and grow economically, is unjust and entirely unfair, and puts them in a very disadvantaged position. As the owner of a medical cannabis based business, seeking licensure, it is essential to our progress to be able to accept money from investors, pay our service providers, pay our taxes, our governmental operating fees and our employees, without discrimination that is derived by current regulation. Banking must open up to Cannabis based businesses - who are putting thousands of citizens to work - and developing a highly sustainable economy, that has a tremendous growth potential on the horizon.

Barbara Finch
barbfinch1275@yahoo.com
BAF Farms
101 Blue Water Lane; Grants Pass
OR, 97527

State Licensed farmer of a crop that the banking industry automatically denies access to an account that could, would, and SHOULD be utilized to make payroll withholding deposits, (quarterly deposits for federal and state business purposes) corporate taxes both federal and state, employee garnishments, etc. Without this passing, we are crippled without proof of payment, or hindered by having to obtain \$200.00 maximum each money orders (which have been stolen by individuals receiving them). We are a legal business entity being crippled by banks denying us access because of the burden of federal regulation. I have found one bank that would accommodate my business but the monthly cost of \$750.00 a month to have it would cripple my business. I employ up to 14 people at my height of season.

Mandolin Kadera-Redmond
mandolinkr@gmail.com
Town Apothecary
2555 International Blvd, 315
CA, 94601

We are a African American woman owned cannabis manufacturing company offering a topical for pain relief to seniors, musicians, bodywork professionals and athletes. One of our owner's background in accounting knows that access to banking opens up opportunities for us to be full compliant businesses that can build financial histories. When we can track our credit worthiness we can access capital that will not only move our business we can make positive impacts to our communities. Please take the information available to the real financial impact this industry will make when we are able to fully engage in good business practices through banking.

Tim Spencer
timspe98@gmail.com
The Green Solution
4100 E Arkansas Ave, Denver, CO
CO, 80222

I joined the legal Cannabis industry in 2017 after 20 years as a commercial production greenhouse grower; I'm married with 2 kids, a senior in high school and a college sophomore. For the first couple of months, we enjoyed payroll direct deposit and everything seemed fine. All of this changed when our bank 'discovered' that we were a Cannabis company. For a year I was paid in cash; walking through downtown Denver with \$thousands until I could get to my bank. This is not safe. In addition, I can't get a home loan, so I'll be renting until things change. The banking situation is inhibiting the validity of the industry and restricting access to basic economic functionality.

Katie Brandt
tk48120@gmail.com
Self-Employed
210 Donald Drive
CA, 95023

I work for several different cannabis companies consisting of cultivators, manufacturers, distributors, etc. I assist them with various aspects with their businesses - i.e. licensing, books and keeping bills paid. Without the ability to keep the business's money in banks, that leaves me personally transporting exorbitant amounts of cash at times. In my opinion, this leaves me personally at risk for attack. While I don't advertise or publicly discuss the fact that I carry large amounts of cash on me, anyone who knows that I work in the industry is aware of the fact that there is a probability that I likely have cash on me at all times.

I have two children, a 2 year old son and a soon-to-be-1 year old daughter. I fear for their safety. It is widely known that there is no banking for the cannabis business and that it is still a cash-based business. Anyone who works in the industry is at risk for an attack/robbery, etc. Therefore, I fear not only for my safety but even more so for the safety of my children.

In summary, it is putting everyone in the industry at risk by not allowing a secure and insured way to store their business money.

Alan Heroux
alan@washingtonpotgrower.com
Hydrofarmer, LLC
P.O. Box 1372
WA, 98837

Marijuana businesses are currently unable to have "normal" banking services because of federal regulations. We handle cash on a regular basis which is unsafe for both sides of the transaction. Paying bills in a digital world when using cash is to say the least difficult and time consuming. From a regulatory point of view it would be far easier to track bad actors in the industry if there were a digital trail of money to follow. There are many reasons why we should have normalized banking services with the only negative being how the industry is viewed at a federal level. Simply allowing federal chartered financial institutions to treat those in the marijuana industry as regular customers would be beneficial for everyone that has the potential to benefit from the products sale.

Luke Sauser
luke@ncgvi.com
GVI
2286 Del Monte St.
CA, 95691

Paying taxes, paying employees, paying vendors, receiving payments, securing investments, and all other standard business practices, which has become much easier for all industries other than cannabis, are still extremely difficult and sometimes dangerous.

Many cannabis employees are either lying or avoiding paying taxes because of their cash payments. They also are forced to make extra trips to their banks to deposit large sums of cash - which similar to people in all other normal industries, they don't have time for.

THC has been proven time and time again to be safer than alcohol and many other legal substances.

It's time we fix one of the largest mistakes/issues in the history of government regulation. We certainly don't need a wall on the border, although further security technology would be nice, although re-scheduling THC and regulating as a psychoactive substance (less dangerous than alcohol) would eliminate much of the cartels' financing and ability to illegally import cannabis.

It just makes sense. And please don't make the mistake of over-taxing such as California did.

Patricia Woods
pattiw@aznaturalselections.com
8180 N Hayden Rd Suite D-107
AZ, 85258

I am not an owner of a Cannabis Related Business. I am an employee. I have worked for this company for over 3 years and a different company in the same industry for a year before that. The current situation puts an element of danger where there shouldn't be one. As a mother and grandmother, I don't like having to be afraid of someone knowing (or simply assuming) that I am in possession of cash. This industry has grown so much in the last 4 years. It is really time that we embrace it and remove the danger surrounding a very normal business environment. I encourage you to search our company on the internet. You'll see that we are a very professional business employing regular, hardworking people. We would appreciate being able to conduct business in a safe manner.

Marissa Rodriguez
marissa@sweetlifedistro.com
TSL Distribution
2801 SE 9th Ave
OR, 97202

Greetings from Oregon!

The lack of access to banking negatively affects nearly 2000 small business owners in Oregon.

Handling cash is dangerous and time consuming. We spend 6 labor hours a day counting cash and have many costly security measures in order to feel safe.

Please provide safe banking for legal cannabis businesses.

Jeanie O'Laughlin
jeanieo2@yahoo.com
9650 Denhart Ave
CA, 93505

I am a CPA and PhD. I consult with a dispensary. Not having access to the banking industry puts all of us at risk; I have to pay vendors with cash; employees are paying bills and then getting reimbursed with cash; my consulting fee is paid in cash. This is now becoming even more of an issue as my personal bank is now questioning all the cash deposits I make. Cannabis is legal in California and for businesses that have all the property local and state licensing permits, we should have access to the banking industry. We even struggle getting our payroll taxes, sales tax, and local taxes paid. I recently had to carry almost \$50,000 in cash to downtown Los Angeles to pay the local tax. We are a legal business and should have access to the banking industry and the safeguards it provides. Thank you.

Simon Menkes CPA
simon@menkescpa.com
Menkes Accounting & Mediation
11280 La Maida St. #201
CA, 91601

I have several clients in the cannabis industry. These are good people who are doing their best to run a regulation-compliant and tax-compliant business. Without access to the banking system, they have to handle large amounts of cash. As their CPA, I WORRY ABOUT THEIR PHYSICAL SAFETY EVERY DAY! They are at constant risk of armed robbery and must take home cash every night to leave their business less vulnerable to theft. When they go to pay their taxes, they take large amounts of cash with them. Criminals would find them easy targets, and their lives would be a cheap cost to these people to steal their funds! Please do the right thing and allow accessible banking for the legal cannabis industry. This is not a matter of economics. IT'S A MATTER OF DECENCY AND PROTECTION OF HUMAN LIFE AND SAFETY! Thank you, Simon Menkes CPA

Christopher Jennings
jenningsc971@gmail.com
Norml national care givers
161 North 7th Street, Apt. A, A
CA, 92220

Hello my fellow Americans I'm glad that we could connect and forge the future of Cannabis in America this action is critical to the safety of employees and also patients in America and across the globe. So Congress let's make history this is legendary status may God bless the future of humanity.
Sincerely yours truly believe that Mr. Christopher Daniel Jennings.

Tracy O'Connor
tracyo@tgmgrow.com
TG Facilities
4002 N. 36th Avenue
AZ, 85019

Banking for the cannabis community needs to be made safer and easier to access. We are a legitimate business with legitimate business banking needs that should be recognized.

Heather Hughes
raisedplain@gmail.com
Hillside Growers
43430 E. Florida Ave
CA, 92544

My husband and I grow grapefruit. I work in healthcare and can see the benefit of cannabis to patients. Those who grow cannabis need a safe environment with access to banking and credit - to avoid the cash-based-business that encourages theft. Please help those growers to get access to legitimate banking businesses in which to continue their industry.

Matt Mooney
mooney900@gmail.com
Matt Mooney Real Estate Group.
806 Tremont Dr
PA, 19335

I don't own a cannabis business, but I am a patient in Chester County, PA. We need to be able pay for these medications and the companies need to be able to run their business using our banking system. It is time!! Marijuana is helping me get off opioid Medication and Benzodiazepine medication safely and effectively. Since April 2018, I have cut the daily dosage of these medications by two thirds and moving towards getting off them completely. ONLY reason, I am able to do this is my use of cannabis medication that began last April. Changed my life!!

Robert Finkle
robert@finklelawoffice.com
Finkle Law Office
11501 Dublin Blvd, Unit 200
CA, 94568

I have represented compliant commercial cannabis businesses exclusively for the past 3+ years. There are three principal reasons cannabis businesses should be given access to safe banking services: (1) the large amounts of cash generated are being actively targeted by criminals creating a public safety risk, (2) as with all businesses, cannabis businesses require banking services to conduct everyday transactions, (3) there is no better way for government to ensure regulatory compliance, including the payment of taxes.

Nathaniel Gurien
nathaniel@fincann.com
 Fincann
 157 Columbus Avenue, 4FL
 NY, 10023

This is not a marijuana issue. It is not about the pros and cons of legalization, potential medical applications, and the myriad challenges faced by an industry struggling to transition from the black market to mainstream acceptance.

The most critical and essential issue arising from the lack of banking for the cannabis and hemp industries is actually one of a community safety crisis and not one of the albeit considerable inconveniences and expenses plaguing the industry. The crisis is real, it is severe and it is bearing down upon us now.

The circumstances of communities now awash in millions or billions of dollars of poorly accounted for new cash is wreaking havoc now with frightening short and long-term potential consequences. Forcing legal, well-regulated and supervised innovative new enterprises to operate in cash:

1. Attracts violent robbery attempts frequently involving innocent bystanders, enormously increases security costs both internal and external, and
2. Encourages licensed operators (many of whom are making a sincere effort to shed ingrained black market business practices) to cut corners and under report results and taxes, sell product into the black market, and engage in otherwise questionable business practices.
3. Represents a systemic risk to the safety and soundness of our financial system.
4. Perhaps worst of all, organized crime is attracted to opportunities related to billions of dollars of poorly accounted for cash and metastasizes over time into a generational unwanted presence in the community.

This looming crisis demands immediate and decisive action. And the simple solution is to provide a safe harbor for our financial institutions to provide business checking accounts for all transparent, responsible, compliant state-licensed cannabis operators and the enterprises that provide them goods and services.

It's quite true that the lack of access to traditional banking and institutional financial services suffocates the cannabis and hemp industries in other important ways, particularly in access to capital to fuel the industry's explosive growth, but addressing that whole ecosphere is accessorial to quenching the firestorm threatening to engulf our communities.

An attempt at this point in the political calendar to adequately address the many nuanced issues of full access to banking and financial services for these industries will substantially dim any hope of timely success. And without having to get into the weeds (pun intended), the ultimate and simple solution to all the rest of it lies with an end to federal prohibition of cannabis.

However, I'm sure many here today recognize the importance of not making the perfect become the enemy of the good.

Our advisory firm educates and guides financial institutions around the country on the true risks and opportunities of servicing these industries. We work directly or indirectly with about 75 banks that provide compliant, transparent depository accounts to state licensees, professionals and vendors providing licensees goods and services, hemp and CBD companies, investment funds, and so on.

I can report from direct experience that the interest level on the part of banks is growing rapidly. One need only look to the over 100 NJ bankers who attended our recent presentation on marijuana banking to their local chapter of the Association of Certified Anti-Money Laundering Specialists (ACAMS – the leading international banking industry AML compliance trade association) representing more than twice the usual attendance at such chapter meetings. Many institutions are giving serious consideration to venturing into some or all industry sectors this year, perhaps resolving the crisis by years end.

But they need your help. They cannot and will not adequately address this crisis and take advantage of this opportunity without your help.

And the help they need from you is very simple, the precedent for which was already established last year:

On August 21, 2018, the US District Court for the District of Massachusetts in RICO litigation brought against cannabis-friendly Century Bank found “that providing ordinary banking services to marijuana-related businesses, in compliance with Treasury Department guidance aimed at enabling banks to provide such services insufficiently demonstrates the joining and intention to further a RICO conspiracy”.

In other words, a federal judge has already decided that simply providing ordinary banking services to marijuana-related businesses is not a federal crime. Nobody’s asking anyone to walk a plank here - now there’s authoritative judicial review to rely upon. All that’s required of Congress is a simple statute confirming this decision that plainly states:

“In and of itself providing ordinary banking services to marijuana-related businesses, in compliance with Treasury Department guidance aimed at enabling banks to provide such services is not a violation of federal law”.

Section 3 (a)(1)(2) & Section 3(b) of both HR2215 & S1152 fulfill this requirement and is therefore the essential safe harbor protection our financial institutions require to fulfill their responsibility as essential stewards of commerce.

Step number one is to bank, track and account for all the cash but a close second in importance is to dramatically reduce the amount of cash transactions themselves by providing the same safe harbor for MasterCard, Visa, American Express and Discover to reverse their current prohibition against cannabis transactions on their networks. Via the above referenced Sections, this legislation serves that additional vital purpose by providing these card networks the assurance they require to safely serve the cannabis industry.

Once again this is not a cannabis issue. Certainly everyone across the political spectrum can easily support nipping in the bud violent and organized crime, tax evasion, questionable and illegal business practices and injury to the safety and soundness of our financial system. This one is easy, universally justified and widely acceptable.

The issues of cannabis legalization are complex and worthy of measured debate and thoughtful deliberation. This not about that and the time for that debate is not yet upon us.

This is about the safety of our communities; this is something everyone can get behind. Think about it: None of us would like to be called to account for not having acted sooner if heaven-forbid an innocent

child is struck by a stray bullet in a cash robbery gone wrong. The clock is ticking and time is of the essence.

Sean McAllister
sean@mcallistergarfield.com
McAllister Garfield, PC
501 S Cherry St, 480
CO, 80246

The lack of banking is a major public safety concern for the cannabis industry. Due to the lack of banking, companies have to store large amounts of cash on hand, which makes them targets for theft (although studies show they are not robbed more often than convenience stores and banks, but it is still a problem). Also, the inability to get loans from banks makes it very difficult for small businesses to grow and comply with the complex regulatory regimes in cannabis. Please make it clear that banks should be able to work with the cannabis industry, just like any other industry. I have personally lost a bank account as a lawyer because I service the cannabis industry, so this reform impacts more than just direct cannabis businesses.

Heather McElravy
heather.kanopli@gmail.com
Kanopli
5940 Chief Buffalo Horn Trail
MT, 59044

As a female I am uncomfortable and vulnerable when handling large amounts of cash without the ability to carry a firearm. Banking would allow us to accept electronic funds.

Roopal Patel
roopal@lilufinancials.com
Lilu Financials, LLC
4110 SE Hawthorne Blvd. #134
OR, 97214

My clients face incredible hardship and extreme business costs in trying to manage without sensible, accessible banking solutions. It is already challenging to be a start up in any industry, but to have limited to no banking facilities is debilitating when a company is trying to grow and maintain compliance (e.g., payroll). Please work to provide a easy and safe way for my clients to manage their businesses by providing safe banking services to legal cannabis businesses at a national level. Thank you.

Adrian Moore
 adrian.moore@reason.org
 Reason Foundation
 5737 Mesmer Ave Los Angeles, CA

Congress should always pay attention when federal and state policies conflict in ways that create public safety problems. That is certainly the case with banking for cannabis businesses.

For a number of historical reasons banks are subject to federal regulations intended to protect the public. As states legalize cannabis, medical or adult recreational use, an industry has arisen that involves considerable flows of money and need for banking services. This puts banks between conflicting state and federal rules vis a vis cannabis. Banks have mostly chosen not to defy federal rules and so have not served the cannabis industry. Which has created significant problems with safe operation of cannabis businesses, paying taxes, and crime. Problems which have been extensively documented.

Only a change in federal rules governing cannabis or a change in federal rules governing banking can end this conflict of rules and the public safety hazards it creates.

States are regulating cannabis businesses to prevent interstate movement of the products and keep the market within their state. Banks are heavily regulated to prevent the flow of illegal funds. Surely Congress and federal agencies can craft a pathway to allow cannabis industries to bank within their states and ensure that those funds do not create any potential external harms. Addressing those problems represents much less risk to public safety than does the current situation in which banking services are denied a multi billion dollar industry that is growing fast.

The longer we wait to solve this problem the greater the risk and the more disruptive it is.

Gina Elko
houseofhemp252@gmail.com
House of Hemp OBX
P.O. Box 1131
NC, 27948

We opened a retail location offering CBD products. Our community welcomed us and we are doing well. CBD is helping a lot of people with their ailments. We did have a credit card service in the beginning, but we're canceled, due to selling CBD. We now have to take cash only. It inconveniences our customers and creates a risk for my staff. Smaller banks will provide CC service, but the rates are too high for business sustainability.

Matthew Friedlander
skagitorganics@gmail.com
Skagit Organics
16915 State Route 20 Unit B
WA, 98273

We have less than five credit unions in Washington state that will open accounts for our business and they charge \$1000 to open the account and \$350 a month to maintain the account. I am unable to use banks to access a loan that would allow our business to purchase the real estate we are currently leasing and I am also unable to use the income from my business to qualify for a FHA loan or refinance loan for a personal residence. Please change the laws to allow business in the cannabis industry to have parity with all other legal businesses.

Michael Anderson
nwgrownllc@gmail.com
NW GROWN LLC
8531 Postma Rd
WA, 98936

There are so many challenges of traceability, farming, weather, pests, transport, record keeping etc that go into this business.

Having Federally legal banking for licensed businesses would be a great boost for all cannabis businesses.

Monica Martinez
monica@thecalyxco.com
The Calyx Company
484 Alderdale Rd Ste. B
WA, 99350

The banking system, where do I start? We have endure quite a bit because of this. The first thing to happen was to have the banks for our farm and my in-laws home (also owners) mortgage loans announce that we were in default on both loans bc we are now owners in an i502 business. We had to figure out how to pay the loans or go into default and possibly lose their home and the farm!! Luckily, we were able to get the loans paid with in two years. It took EVERYTHING we had to get them paid off and have been left trying to catch up ever since. Especially when this industries market is continuing to go down every year, it has not been easy. Next would be our inability to get a loan for a new home. Our family has grown and we started looking at selling and moving, but we cannot bc we cannot get a bank to lend to us. We are a family of 5 in a 1000 sq ft home. I pride myself on having excellent credit, but you wouldn't know it because it feels like we have the worst credit or are even criminals when it comes to trying to bank like "normal" people. Another one of our owners banks dropped her when they found out she was an i502 owner and this same bank refused to cash our employees paychecks. Luckily we do now have a bank for our business. It is an hour from the farm, has a fee of \$150/month to use it and is very limited. No ATM use or online app functions and they will not lend ANY money. But it is much better than no bank at all like when we first started. This is just what I can think of off the top of my head, I am quit sure there have been more negative situations that I cannot think of right now...Thank you!

AC Braddock
acbraddock@edenlabs.com
 Eden Labs
 Seattle, WA 98108

Eden Labs is a 24 year old botanical extraction and distillation company that has worked in a multitude of industries such as; bio-fuels, flavorings, perfumes, natural products and liquor to name but a few. However, because we also supply extraction equipment to the cannabis industry we have been labeled a "cannabis company" by financial institutions. This has caused Eden to lose a bank account and has caused 3 of our employees to go through a far more rigorous qualification process when applying for their home loans this past year. These are loyal hard working people and it pained me to hear of the added stress that had to endure by simply being employed by Eden Labs.

To be clear, Eden Labs does not produce concentrates, yet our growth has been significantly inhibited by the inability to acquire the basic financial support any other small business requires from time to time including Lines of Credit and Short Term loans simply because of our arms length association with cannabis. Our business is in a state that has supported medical cannabis since 1996 and has had Adult Use legalization since 2012. At this point, the majority of states nationally have legalization primarily to find alternatives to opiates and other serious medical illnesses.

On a national scale, It is a travesty that billions of US investment dollars are supporting a worldwide legalization movement for medical use while American businesses wallow unsupported, not by the populace, but by those who have taken an oath to represent them. The short term solution is congressional action on banking to provide the US industry a modicum of support to compete globally and to remove the regulatory burdens placed on the banking industry. This is the most bipartisan win-win Congress can act on this year. The polls are clear.

The US should have been the global scientific and business leaders, but we are losing out to other countries on an issue being resolved at a snail's pace state by state. The scales have tipped. Please support our countries innovation and entrepreneurship now.

Sean Caffrey
sean.caffrey@pharmacannis.com
PharmaCann
Located in multiple states (IL, NY, MA)

I was part of a small startup in CO from 2010-2015. When we first got our bank account shut down it was just about the same time that we actually started making money, so the cash started to pile up. On one occasion we were stalked and singled out by some predatory con artists. They somehow determined our excel energy account number, and knew that we were behind on our bills. They asked us to head to an address to take care of payment to avoid service interruption. I didn't check the address, I just went there with \$20,000 in my 1999 Ford Windstar. I got to the address, and didn't see the excel office. Just as I am realizing the naïve mistake I had just made, I saw four guys rolling up on the windstar, two on each side. I sped away as fast as that minivan could take me.

All of the cash was stored on site, we paid employees in cash and took the withholdings down to denver ourselves, in cash. One budtender, stole another's paycheck, but we couldn't prove it so we cleaned house.

One time the mechanic across the street from the dispensary asked me one morning, "What were you doing on the roof last night?" I wasn't on the roof.

In 2013 our cultivation was broken into by kids armed with handguns, they got in through the ventilation. They looked around for cash and didn't find any, so they just wrecked a bunch plants and left. If I had been in the building at the time, that story would have ended differently.

Hope this helps,
Sean Caffrey

Etienne Fontan
etienne@mybpg.com
1440 4th St, ste D
CA, 94710

Berkeley Patients Group is a Berkeley-based, California state-licensed, locally authorized dispensary as well as the oldest, continuously operating cannabis dispensary in the country. We pride ourselves on having set the standard for responsible, compliant cannabis operations around the country.

Since our founding in 1999, we have prioritized maintaining a safe operation following standard business practices, especially when it comes to cash handling. Federal laws have created an inconsistent, unstable, and at times dangerous situation. Regardless of our state compliance, we have been removed from well over 30 banking institutions.

We seek and request to be treated like any other business with the rights and privileges that come with being recognized as a legitimate industry. It is the federal prohibition and financial roadblocks against cannabis that have kept us from achieving this goal. We encourage the committee to consider relief that will rid us and all legitimate cannabis businesses of these handcuffs so that we can ensure the industry has access to safe, sustainable banking solutions.

Keith Cich
keithc@sunderstorm.com
Sunderstorm LLC
1146 N Central Ave
Glendale, CA 91352

I am a Stanford grad and former fixed income derivatives trader on Wall Street, now heading up finance for a licensed manufacturer in California. Our biggest security risk is cash: our delivery drivers are followed by thugs and vans broken into, and this problem is escalating. Lack of banking in a highly regulated state legal industry is a major cause of unwanted crime. Let's allow federal banking and turn this into a professional industry without crime, and reduce the risk that cannabis employees are robbed with significant exposure to physical harm. Also, this will improve the federal and states ability to monitor cannabis companies and collect taxes due them. Its a win-win. Do it now.



1620 L Street NW, Suite 1020
Washington, DC 20036

202.828.2635
electra.org

July 23, 2019

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, DC 20515

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, DC 20515

The Honorable Cory Gardner
United States Senate
Washington, DC 20510

The Honorable Jeff Merkley
United States Senate
Washington, DC 20510

Dear Chairman Crapo, Ranking Member Brown, and Senators Gardner and Merkley:

On behalf of the members of the Electronic Transactions Association (ETA), I am writing in support of the bipartisan S. 1200, the *Secure and Fair Enforcement Banking Act of 2019* (SAFE Banking Act), which would allow states that have legalized medical or recreational use of marijuana to bring that commerce into the banking system.

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services; its membership spans the breadth of the payments industry to include independent sales organizations, payments networks, financial institutions, transaction processors, mobile payments products and services, payments technologies, equipment suppliers, and online small business lenders.

Thirty-three states and several U.S. territories have legalized marijuana for medical use and ten states have done so for recreational use. Financial institutions providing services to state-licensed marijuana businesses could find themselves subject to criminal and civil liability under the Controlled Substances Act and federal banking statutes because the use and possession of marijuana is illegal under federal law.

The SAFE Banking Act specifies that proceeds from a legitimate marijuana business would not be considered unlawful under federal money laundering statutes or any other federal law, which is necessary to allow the electronic payments ecosystem to service marijuana businesses as well as any ancillary businesses that derive some portion of their income from marijuana businesses. This bill also delivers explicit, consistent direction from federal regulators that will provide clarity for financial institutions and help them evaluate the risks and expectations.

The conflict between state and federal laws forces businesses to operate on a cash-only basis and has created significant legal and compliance concerns for financial institutions that wish to provide banking services to marijuana related businesses in states where it is currently legal. The SAFE Banking Act would allow legitimate marijuana businesses to access the safety and security of the banking ecosystem in states that have legalized marijuana. Having access to the banking system makes it easier for businesses to track revenues for taxation purposes, decreases a public safety threat as cash intensive businesses are often targets for criminal activity, and allows proper tracking of finances for BSA/AML compliance.

ETA takes no position on the legalization or decriminalizing marijuana at the state or federal level for medicinal or recreational uses. However, ETA does support legislation that would resolve the conflict between state and



1620 L Street NW, Suite 1020
Washington, DC 20036

202.828.2635
electran.org

federal laws to allow financial institutions to serve marijuana related businesses in states where these businesses are legal under state law.

We appreciate your leadership on this important issue. If you have any questions, please feel free to contact me directly at stalbot@electran.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Talbot', is written over a light blue rectangular background.

Scott Talbot
Senior Vice President of Government Affairs
Electronic Transactions Association





National Organization for the Reform of Marijuana Laws

1100 H Street, NW, Suite 630
Washington, D.C. 20005
T 202-462-5800 / F 202-463-0057
<http://norml.org> / norml@norml.org

Contact:

Paul Armentano

Deputy Director

NORML

Paul@NORML.org

Submitted to:

United States Senate Committee on Banking, Housing, and Urban Affairs

Washington, DC

July 23, 2019

Testimony of Paul Armentano, Deputy Director:

National Organization for the Reform of Marijuana Laws

In Regard to:

Challenges for Cannabis and Banking: Outside Perspectives

My name is Paul Armentano and for the past two-and-one-half decades I have worked professionally in the field of marijuana policy. I have authored various books specific to the issue of cannabis policy, and my writing has been featured in over two dozen academic anthologies. I have testified on matters of cannabis policy before numerous state legislatures and federal agencies, as well as at various academic and legal symposiums.

I hold a faculty position with The Lambert Center for the Study of Medicinal Marijuana and Hemp at Thomas Jefferson University in Philadelphia, and I currently serve as the Deputy Director for the National Organization for the Reform of Marijuana Laws (NORML). Since its founding in 1970, NORML has served as an advocate for those who believe that the use of cannabis by responsible adults should not be subject to criminalization. NORML further believes that a regulated, above-ground marijuana market -- rather than the perpetuation of a criminal underground market -- best mitigates potential risks associated with cannabis use and sales.

I wish to thank the members of this Committee for holding this hearing to discuss strategies to facilitate greater financial transparency in the legal cannabis industry and retail market.

To date, ten states¹ – Alaska, California, Colorado, Illinois, Maine², Massachusetts, Michigan³, Nevada, Oregon, and Washington – permit retail sales of recreational marijuana to adults. According to data⁴ compiled by the Institute on Taxation and Economic Policy, tax revenues in 2018 derived from state-sanctioned recreational sales surpassed \$1 billion – a 57 percent increase over 2017 levels. Annual excise tax revenues on adult-use cannabis sales in these states (\$1.04 billion) rivaled those for all forms of alcohol (\$1.16 billion).

These tax revenues indicate the significant and exponentially growing size of the legal, retail recreational cannabis market in the United States. In coming years, this legal market is only going to increase in size, as additional states enact similar cannabis regulatory and taxation schemes governing the adult use marijuana market.

Yet there remains one significant hurdle facing players and consumers who participate in this market. Almost none of these licensed businesses operating in this increasingly lucrative space can legally obtain a bank account, process credit cards, or take standard business deductions on their federal taxes. This is because federal law continues to inappropriately define all marijuana-related endeavors as criminal enterprises, including those commercial activities that are licensed and legally regulated under state laws.

In short, federal lawmakers are mandating that this rapidly growing multi-billion dollar industry operate on a cash-only basis – an environment that makes businesses more susceptible to theft and more difficult to audit. It also places the safety and welfare of these businesses' customers at risk, as they must carry significant amounts of cash on their persons in order to make legal purchases at retail facilities. Similarly, it needlessly jeopardizes the safety of retail staffers, who are susceptible to robbery.

¹ Although both Vermont and the District of Columbia permit adults to legally possess marijuana, neither jurisdiction regulates retail cannabis sales.

² Retail adult use sales have yet to begin in Maine.

³ Retail adult use sales have yet to begin in Michigan.

⁴ Institute on Taxation and Economic Policy, 2019, *Taxing Cannabis*: https://itep.org/taxing-cannabis/?fbclid=IwAR0DUf48AoHQ9J7v81EDxjia_Xd-zssUXJSvJmjpwDp-8UR9BE3zuN-SOsM

Good faith efforts taken by the Obama administration to address this situation have thus far failed to adequately do so. Specifically, in 2014, the US Department of Treasury issued guidelines⁵ for financial institutions seeking to provide services to state-licensed cannabis businesses. Yet, according to the latest data compiled by the US Treasury Department's Financial Crimes Enforcement Network (FinCEN), fewer than 500 financial institutions nationwide are actively providing services to the thousands of existing cannabis-related businesses.⁶

For an industry seeking legitimacy and requiring transparency, the inability to obtain banking and credit access remains a primary, but unnecessary, roadblock. In order to truly bring the marijuana industry out of the shadows, actions need to be taken by Congress to amend these outdated and discriminatory practices.

In short, no industry can operate safely, transparently, or effectively without access to banks or other financial institutions and it is self-evident that this industry, and those consumers that are served by it, will remain severely hampered without better access to credit and financing. Ultimately, Congress must amend federal policy so that these growing numbers of state-compliant businesses, and those millions of Americans who patronize them, are no longer subject to policies that needlessly place them in harm's way.

⁵ <https://www.scribd.com/document/207174093/Marijuana-Business-Guidance>

⁶ FinCEN. 2018. *Marijuana Banking Update*: https://www.fincen.gov/sites/default/files/shared/Marijuana_Banking_Update_September_2018.pdf



July 22, 2019

Dear Senator Menendez and Senator Paul:

We, the undersigned U.S. trade associations, write to express support for the Clarifying Law Around Insurance Marijuana (CLAIM) Act. Collectively, we represent a majority of the companies, agents, and brokers offering property-casualty, title, and reinsurance in the U.S. (collectively, "insurers").

The insurance industry is potentially exposed to liability arising from the differences of the legal treatment of cannabis and cannabis products under federal and state law. The CLAIM Act recognizes this problem and resolves it by providing a comprehensive federal safe harbor for insurers. The bill's safe harbor provisions would prevent federal criminal prosecution of insurers that transact with consumers, and it would prevent civil liability for agents, brokers, and insurers, their officers, directors or employees. By resolving the legal uncertainty presented by the dueling state and federal treatment of marijuana, the insurance industry can serve both cannabis-related legitimate businesses (CRLBs) and other commercial lines consumers, as well as personal lines consumers who may have a direct or indirect relationship to state-legalized cannabis, and still be in compliance with the law.

Further, the CLAIM Act will enable those engaged in the business of insurance to be able to comply with a variety of state statutory and regulatory requirements. Importantly, this legislation would help consumers, with direct or indirect contact with state-legalized cannabis, access insurance products and services and the protections they provide.

The CLAIM Act is a comprehensive solution to provide legal certainty for our market while also preserving the states' traditional role in regulating the business of insurance. Under the bill, insurers must still satisfy all applicable state statutory or regulatory requirements, such as those pertaining to consumer protections and claims payments. We appreciate your interest and effort to ensure our industry is not caught between conflicting obligations under federal and state law when serving our customers.

Thank you for your leadership on the CLAIM Act. We look forward to working with you, your colleagues, and the Administration so that the bill is enacted.

Sincerely,

American Land Title Association (ALTA)
 American Property Casualty Insurance Association (APCIA)
 The Council of Insurance Agents & Brokers (CIAB)
 Independent Insurance Agents & Brokers of America (IIABA)
 National Association of Mutual Insurance Companies (NAMIC)
 National Association of Professional Insurance Agents (PIA)
 Reinsurance Association of America (RAA)
 Wholesale & Specialty Insurance Association (WSIA)

Personal Stories Submitted to Senator Jeff Merkley
Senate Committee on Banking, Housing, and Urban Affairs
Challenges for Cannabis and Banking: Outside Perspectives
Tuesday, July 23, 2019

My name is Todd Theiss. I am the Owner/President of Redbarn Garden Supply LLC, Redbarn Pharms LLC and Redbarn Gardens LLC. I am also Owner/Partner of a property development company, real estate company and a loan brokerage company.

The first business we opened was Redbarn Garden Supply in Myrtle Creek. This business has nothing to do with cannabis. After that business was open more than a year, we opened a dispensary located in Myrtle Creek and one located in Roseburg. We are also in the process of opening one in Myrtle Point. We have a grow site in Myrtle Creek and will be starting our processing site in Myrtle Creek. Our main office is in Myrtle Creek. We plan to keep expanding our businesses.

When we started business as Redbarn Garden Supply we opened a business checking account and savings account at Wells Fargo. Transactions for this account were income from daily sales, which had nothing to do with the cannabis business, and expenses pertaining to the store. We didn't have any issues until we opened the dispensary, which did not have a bank account at Wells Fargo. Wells Fargo informed us that they would be closing our accounts. When we questioned why we were told they weren't required to give us an explanation. However, we were able to determine that is was because they believed cannabis money was being funneled through the account. It wasn't.

We opened a business checking account with Banner Bank in February 2019 and by June 2019 we received a letter stating they had elected to close the account with in 1 week. Again, they stated they didn't have to give an explanation, but we assumed it was for the same reason. It has taken more than a month to get this account replaced and we fear that it will be closed too.

It took us almost 1 year to find a financial institution that would open accounts for the cannabis industry. We were able to open accounts for 1 dispensary and the grow site business. The downside is that the branches are 2 hours away, so we are traveling the I-5 corridor between Myrtle Creek and Salem with thousands of dollars in order to make deposits, get change, etc. We feel strongly this is unsafe. In addition to the inconvenience the fees that are charged monthly are extremely high, but we are paying them because we need the bank accounts. Because of the added amount of cash in the businesses we have had to increase security and install additional safes. We don't want to have the cash in our businesses, but we can't get bank accounts.

As I mentioned I have a real estate company and a loan company. These businesses had a total of three bank accounts with U.S. Bank for 40+ years. My father who has a business and has NOTHING to do with any type of cannabis business has an account at U.S. Bank. Last year we received a letter from U.S. Bank stating that all 4 accounts were being closed and no reason as given. After asking some hypothetical questions we discovered that the accounts were being closed because they thought maybe cannabis money was going into the accounts. They stuck with that explanation even after they admitted that an internal audit showed evidence of cannabis money going in or out of those accounts. PLEASE know that we never did anything with those accounts that wasn't from real estate or loan business. I had to open the real estate and loan accounts with Umpqua Bank. We are stressed every day that we will be getting a letter closing those accounts. Trying to find another bank that would be convenient, and accommodating will be next to impossible. As for my father's account I had to sign a form stating that I would never deposit money into that account, and he had to remove me as a backup signer. This letter from U.S. Bank is what started the domino effect for all other accounts.

The other thing that has happened is that several of our employees have had their personal bank accounts closed. Their credit card accounts closed. Partners of the LLC's have had their bank accounts closed, credit card accounts closed. Even more unbelievable spouses of employees have had bank accounts closed. We have employees that are afraid that they will have mortgages or loans cancelled because they are tied to their own banks or other banks.

We desperately need an open and accepting banking industry.

Respectfully,

R. Todd Theiss , Owner/President, Redbarn Cannabis, Myrtle Creek, OR

Stephani Nicole, California

Following up with you directly about a bank issue my company, JadeHouse Extractions, had. We had an account with a branch of a bank called Pacific Banking Corp and had an awful experience, almost went to the point of litigation. Most of the time we couldn't wire money out on time and when we tried making deposits wouldn't deposit them into our account on time and essentially made every move we tried to make extremely difficult and would take over a week at times. It got to the point where they would not let us make any wires out at all (mind you we had no debit/credit card or other way to move money in or out of our account). They didn't officially freeze the account but they made it so it was not possible for us to access the money in the account. It got to the point where we essentially felt like we were a hostage to the bank. Took several weeks until we were able to finally wire our money out of that account and close it. We've been struggling/scared to try and find another solution since.

Sheryl Mizicko- Ideal Harvest- Denver, CO

I provide ancillary equipment and services - consulting, equipment and technology and do not even touch the plant. Have been kicked out of 2 banks in 2 years. Have been told that I am a bigger risk than growers because I didn't go through a background check to do business and am not consistently monitored by the state -and I'm risky because I get paid with money from drug dealers/an illegal enterprise (again I'm like any other company in any other industry and I only sell to licensed growers, extractors and manufacturers. I am now with a credit union and it's going great, but I worry constantly.

[Yvette Williams](#) I have had 8 bank accounts. We have been in business for 10 years.
Colorado

Amanda Mave Trinidad, CO

We had a Wells Fargo account, and started a hemp business, HEMP, under the 2014 Federal Farm Bill, went through the Colorado Dept. Of Ag. Wells Fargo said they would no longer service us and closed our account. Ended up with a bank based out of Trinidad CO, although they eventually closed our account too. It was one of many factors that made industrial hemp not a cash crop as it was purported to be.

Heather Schafer California

In 2017 Wells Fargo shut our law firm bank account down because we were offering educational seminars to the cannabis industry. Over the last 4 months we have been to 5 financial institutions in the county we are helping to get set up with Commercial Cannabis activity, and 4 of the 5 said no because they won't touch any business that services the industry and the 5th told us that they would not be able to handle the amount of cash required for even 10 cannabis clients.

[Jessica Tonani](#), Washington

We only do research on cannabis. No sales or “trafficking” and we were shut down by Chase. We now bank with a great local credit union, but are charged a monthly audit fee even though we have zero sales.

[Bridget Goldsmith McKee](#) Colorado

CC processing is my big issue. That's how they are literally choking out the small farmer; I have a tale to tell. Hoping for big progress next week. What's going on in banking is criminal.

Courtney Bailey Humboldt, California

We were recently shut down by Wells Fargo after they crosschecked licenses issued by the CDFA. Myself and others in Mendo received the risk assessment letter dated the same day. I can share the letter with you. Bank of America shut my business credit card down a week later.

There is a Credit Union in Southern Humboldt that is affordable and willing to work with plant touching businesses. Other credit unions and companies are charging \$12k-\$36k a year for audit fees plus transactions fees.

[Sara Walker](#) California

Just got shut down by Chase today and we are bookkeeping and accounting.

To Whom it May Concern:

As a CFO and Accountant working in the cannabis space the last five years, as well as providing Cannabis accounting education to over 300 member Accounting firms in over 40 states, myself, my clients, and my students and their clients (numbering in the 100's, if not 1000s) have had major issues finding banking and getting accounts shut down. This is a huge national problem and it makes no sense to have a state legal industry that is required to pay tax dollars federally and locally that has no access to banking.

The result of this high cash system is likely fraud, theft, and lower tax payments to the IRS and state. We speak all over the US on many topics around accounting and tax, but none is more urgent than the banking and merchant services issues these companies face.

Please fix this immediately!

Andrew

Andrew Hinzicker, CPA
CEO/Managing Partner
DOPE CFO/CFO Bend
www.dopecfo.com
Bend, OR

I have had a bank account with us bank for about 20 years here in Vernonia. We opened our little dispensary in September 2015. The people at us bank have always been super nice and understood the banking situation that we were dealing with. This year though when I paid our federal tax, it was a good sum but I just wanted it taken care of. Well I guess that was a red flag to us bank corporation and they closed my account. For paying our taxes. It was been difficult to maintain a business without a bank account. Now I have a personnel account with a credit union, but not a business account.

Pretty bad when you get treated like this just for paying your taxes.

Sincerely,

Wendy Brisbin
Owner
Vernonia's natural choice
Vernonia, OR

To whom it may concern,

My wife and I quit our jobs, cashed out our 401ks and refinanced our home in order to open up our dispensary almost 5 years ago. We have no big investors or partners with funding. Since then, we have been recognized as one of the best and most compliant dispensaries in Oregon by receiving numerous awards and honors. Both My wife, Jaime and I have over an 800 credit score, but can't get approved for a mortgage. We are forced to pay higher than market rent, high insurance premiums, and a dramatically higher tax rate. Due to the fact that we are in the cannabis industry, everyone feels they can charge a premium for things that every other business takes for granted. We are expected to be grateful for the ability to even have these regular services. Banking is no different for us. Very few banks will even allow us to use them, and the ones who do require invasive reporting, and excessive fees. Our daily business suffers, since we aren't allowed to have credit card machines, forcing us to deal in cash. This creates a safety risk for my business, and employees. Our industry continues to expand into other states, Canada has legalized nationally, and the momentum won't stop. Correcting banking regulations regarding a completely legal, state licensed business that has shown that we just want to be treated like every other legal business in this country. Please help by backing bank reform for our industry.

Thank you

Shea Conley
MindRite
Oregon

The cannabis industry has many challenges ranging from strict regulation, excessive taxation, to outright discrimination. All these require a significant amount of energy and creativity to address. None so much as access to financial services. As co-founder and CFO of Sun Breeze Inc, a vertically integrated company holding OLCC licenses of various types, I have put more effort in simply acquiring and maintaining a simple bank account than most business would on a whole department. In truth it has been a full-time position managing the large stream of cash inherent in a business that banks are unwilling to work with. Over the course of our five-year adventure we have been denied every application for banking, open and lost multiple accounts set up for parent, sister, and ancillary companies. The situation has forced us to transport significant amounts of cash over great distances simply to reimburse the State of Oregon the sales taxes we have collected on its behalf. Once I arrive in Salem to make such a payment, I receive insult to injury as I watch the state employee take its revenue from the cannabis industry and put it straight into a bank deposit bag. How is it that the state has access to the federal banking system for its share of the proceeds in the industry? The rest of us are forced to buy money orders to pay standard business expenses and bills and in doing so we must hope the vendor doesn't decide to deny access to that service as well.

In addition to being unable to access banking services, merchant accounts, or other financial products, our company has specifically had prepaid accounts closed, merchants refuse to sell us money orders, had our ability to purchase gift cards denied and generally treated as criminals by the financial community at large. It has only been recently that MAPS credit union based in Salem, Oregon has relieved some the pressure by offering limited access to financial services. This has help significantly, however still requires the transportation of large amounts of cash over a large distance as MAPs only has branches in the Salem area.

The only issue that compares in significance to banking for the cannabis industry at large is that on the subject of taxation and effect of IRS code 280e. Opening the doors to offering standard financial products to cannabis industry businesses will not only reduce the significant risk associated with conducting business, allowing the industry to mature naturally, but it will also provide the means for cannabis businesses to pay the federal income tax, which can only be done through a financial institution such as a bank.

Change to banking restrictions for the cannabis industry is long overdue as those of us in the industry have proven we can operate responsible businesses, contribute to local jobs, generate taxes, and provide safe access to consumers interested in legally grown cannabis. We ask congress to help state legal cannabis businesses like ours bank like all other Americans.

Jon Cunningham, CFO

Sun Breeze Inc

A Family of Companies Working to Ensure Safe Access to Quality Healing Herbs.

www.sunbreezeinc.com

Salem, OR

Hello:

We have had three banks cancel our bank accounts after they found out we were in the cannabis industry. Banner Bank, Peoples Bank and Northwest Community credit union. We recently were in the process of making application with Bank of the West but were told that we couldn't have account since we had hemp and the on the property. As a result, we operate in cash, driving our utility payments to the different locations as well as paying the IRS, SAIF and Department of Revenue with money grams.

We also opened three bank accounts at Maps Credit Union in Salem at a cost of \$500 per month per account. It took months to finally get the accounts in place. It has been a totally frustrating experience. It would be wonderful for all of us in the marijuana business to be able to enjoy banking like so many of our associates who are not involved in cannabis. Any help you may have would be greatly appreciated.

Deborah Gadberry
Salem, OR

I opened our medical dispensary in 2014. Before we had our license I went out and opened five bank accounts. I currently have one left. The only reason that I have that remaining account is because I only use it for IRS payroll tax payments and some very small on line or incidental purchases at local stores. I am lucky to be able to have this account for the IRS tax payments because there is a \$500 penalty if you do not pay electronically. They waived it for me once when I paid with a money order. But if you continue to pay via money order or check the fee applies.

How do I do business? We pay for all of our inventory purchases with cash. That means that all of that money is on hand in our safe. It also means that many vendors are driving around the state with thousands of dollars on them at any given time. In order to make sure that I am keeping track of my purchases and balancing the amount of cash I have on hand, I write up an invoice for every purchase that I make from cannabis vendors and I ask them to count the money in front of me and then sign off on the invoice. I then keep a paper ledger as well as a computer file for my accountant. I count the cash I keep in reserve daily to make sure that things are in order. All the cash moving around takes quite a while to manage. I have a few friends who are accountants and they can't believe what I need to do to keep the books in order. I also pay my employees in cash in much the same way. I write up an invoice that they sign after they count their pay and they return it to me.

Other bills are paid with a money order. I am lucky to have a Walmart in town for some of the monthly bills that I pay with a money order. But I need to spread the purchases around so that the store doesn't get suspicious. Walmart has the most liberal policy as far as the amount of money orders you can purchase at a time. I can't exceed 1,000 or there are questions that I can't answer truthfully. I travel to Springfield, Eugene and Salem (when I drive up with my monthly Marijuana Tax Payment to the Department of Revenue) and spread out my purchases there.

My town is 90 minutes from Salem and I make that drive monthly to make my tax payments which range between \$6000 and \$10,000. I am a small store, so I don't have much compared to larger shops. To make it a more manageable size, I make sure to pull all the \$100 and \$50 bills I can when I separate my tax money at the close of the week.

I don't use a credit card or debit service because I need the one account that I still have. There are plenty of companies that would love to help me out with processing transactions but when I ask if they can get me an account they can only say 'No' or offer to try and get me an off shore account that would be expensive and very cumbersome to use. The merchant services that are willing to try and work with us charge much more as far as transaction fees go. I have seen anywhere between 3%-6% and sometimes with an additional fee.

There is a credit union in Salem that will work with cannabis business in their county OR if you are a member of ORCA (Oregon Retailers of Cannabis Association). The fee is \$500 per month and a VERY large packet of documents that must be filled out to gain the account.

We do have an ATM account in our store that is not affiliated with our business. The ATM account enables me to let customers pull out cash for purchases.

Please let me know if you have any questions. Thanks so much for bringing this to the forefront and pushing for much needed change!!!

Colleen Valley, General Manager, Apothecaria
Cottage Grove, OR

To Whom It May Concern:

I have been asked by ORCA (Oregon Retailers of Cannabis Association) to write a letter about my personal experiences with banking and the cannabis industry.

I moved to Oregon from North Carolina in the middle of 2017. When my father passed away in 2008 he had left me several inherited retirement accounts (Inherited IRAs) which I had administered by Ameriprise. I had discussed the move with my advisor in NC along with my intention to work in the cannabis industry in OR. Indeed, I received my Oregon Cannabis Worker's Permit while still in NC to ensure the fastest acquisition of a job upon arrival, and I even showed this to her.

When I arrived in Oregon, I arranged for a new Ameriprise advisor in Eugene. After meeting with him, he told me that he had heard that Ameriprise was actively comparing a list of social security numbers of registered cannabis workers with the social security numbers of their clients. If they found a match, they would preemptively liquidate all accounts and send the client a check. It turns out they were probably comparing the list of businesses registered for a license and he was mistaken, but when he told me that it scared the shit out of me and almost made me physically sick.

First, it can be well documented that the contributions to this particular IRA had come entirely from Duke University where my father worked. It's impossible to make contributions to an Inherited IRA. The only option is to make withdrawals so the notion that the money came from a cannabis source is illogical. Secondly, liquidating any retirement account would incur massive fees and taxes, and to do so preemptively without client approval is probably criminal – or it should be.

Having overcome the nausea, I contacted Oregon Community Credit Union and they said they'd be happy to take my money as long as it wasn't a business account in the cannabis industry. They didn't care about employee income. I promptly moved all my assets to OCCU and have been with them ever since.

Regardless of if the Ameriprise individual was mistaken, this is an indication of the paranoia and ludicrous lengths the financial institutions are willing to go through because the federal government is unwilling to listen to the majority of the citizens in this country. Banking reform is only the first step in fixing the quagmire our elected "representatives" have gotten us into. Nothing less than treating cannabis with the same restrictions as tobacco and alcohol will appease me.

Thank You,
Chris Smith-Naill
Deadwood, OR

Hello,

I operated Oregon Cannabis Law Group ("OCLG") until 12/31/2018 when we merged with Green Light Law Group. OCLG's bank accounts (both my operating and lawyer trust accounts) were abruptly shut down with no notice, crippling my ability to do business, and leaving me momentarily out of control of my clients' funds. As an attorney, this was extremely worrying, and I had to contact the Oregon State Bar immediately because of the issue with my trust account. Luckily, I had a good relationship with one of the branch managers, who was able to pull some strings to get me cashier's checks for all my account balances, and who unofficially confirmed that the shutdown was because of my dealings with legal cannabis clients. At my next bank, although they never shut me down, they called me in for numerous meetings where various transactions were scrutinized, and asked me invasive questions about the number of cannabis clients I represented.

I hope this is helpful, thank you for your efforts to improve the terrible banking situation in our industry.

Best,

Andrew C. DeWeese | Attorney
Green Light Law Group, PC
Portland, OR

Tokyo Starfish
Bend, OR

7/19/2019

Dear Senator Merkley,

I am writing in support of SAFE Banking Act (S.1200). As CEO of Tokyo Starfish, an Oregon Cannabis Business that has 5 active OLCC licenses and employs over 55 hard working great Oregonians, we believe that a legal state business should have the right to have banking options available to us.

The banking restrictions on our business is the major outlier that prohibits us from operating like a normal legal business entity. We are required to operate within rules and regulations set up for businesses by the state of Oregon and the Federal Government, which include proper financial tracking and payments for taxes, employees, registrations, licensing etc. Yet without the ability to have a bank account, we are extremely hamstrung with fulfilling these obligations. Instead we are forced to find other solutions that cause more time, energy, money and risk for ourselves as well as other business operators and state employees.

We have been able to initially open bank accounts to attempt and operate above board, to only have them shut down. When these bank accounts get shut down, they also close any personal accounts associated with the business owners causing tons of work to facilitate new accounts and operations. Yes, there are a few credit unions that are allowing accounts for the cannabis industry, but with extreme oversight and exuberant costs. These accounts, for three licenses, would cost our business over \$20,000 per year.

Finally, we are the most regulated industry every in these initial stages of our business. I simply ask, what is easier to audit and keep track of, a bank account or cash stockpiled somewhere? With over \$266 million in tax revenue generated by the cannabis industry for the State of Oregon please help us have banking so we can easily continue to pay our taxes and operate our legal businesses.

Thank you.

Kale Gray

I understand that Senator Merkley is seeking comments from the state-legal cannabis industry regarding their struggles with banking. I am general counsel to a company with multiple licenses at the retail, wholesale and producer levels. We currently have no banking whatsoever, and are running about \$5 million + in cash revenue. The lack of banking makes the receipt, counting and payment of bills and payroll an incredibly time-consuming process, and creates significant risks and other challenges.

For example, in order to pay our monthly sales taxes, we have to physically take piles of cash to the Oregon Department of Revenue building. That process can take several hours to count both at our facility and at ODR. The transportation of that much cash (upwards of \$80,000 per month) creates safety risks for the personnel making the payment.

Furthermore, there are several payments that can only be made online via a credit or debit card in order to remain in compliance under state law – in particular Metre tags, which are state-mandated. The only way we can pay for these state-mandated supplies is to have an employee pay for it out of their own personal bank account.

Relatedly, I am aware of several attorneys/law firms who have performed legal work for state-legal cannabis companies who have had their bank accounts frozen and closed by their banks. One of them was the law firm I was working for last year. There was no notice and it took several weeks to get the funds taken out of the frozen account, and was incredibly disruptive to the firm's clients and employees.

Please let me know if you have any further questions or need clarification of any points. My contact information is below.

Kevin J. Jacoby
Attorney at Law
Salem, OR

My husband, Tony, and I created Shah Saffron CBD, a startup in Grand Rapids, Michigan.

We tried to obtain a business checking account with the credit union where we personally bank but were denied. We managed to open a checking account with another credit union and were shut down a few days later once they figured out "what" we were. I researched "CBD-friendly banks" and found Chase and Bank of America allegedly were open to our industry. I called to confirm before going down to Chase and even the banker at the branch confirmed we could open a business account but again, we were shut down about a week later. I've befriended a helpful woman at Bank of America who checked their policies and is challenging upward to make sure that we can open an account. We are now engaged in the application process of a compliance-based electronic payment hub that will hopefully approve us so that we can continue the process of securing a few merchant services accounts. We are held up with two companies due to not having a business checking account.

Securing a merchant services account has been even more difficult.

If you need any additional information, please call on me to help! Our purpose is to help people live better lives and be comfortable in their bodies, minds and hearts.

Sincerely yours,

Apc

--
April Moayyer
CEO/Owner
www.ShahCBD.com
Grand Rapids, MI

Hello,

My name is Ramsey Hamide. I am a co-owner of Main Street Marijuana. We are the largest dispensary in Washington state the past 5 years, with over 100m in sales.

I have seen many problems the last 5 years not having proper access to banking. The first and most dangerous situation was when we first opened in 2014 and didn't have state Credit Unions to service our stores. We would pay all our employees in cash, and have hundreds of thousands of dollars in cash in the store at any given time. There were times where we had to make monthly excise cash payments to the Washington State Liquor and Cannabis Board all in cash. These payments were over \$500,000 in cash. It was extremely dangerous to be storing, and transporting that much money in cardboard boxes at around the same time every month. We were always fearful of being robbed, or murdered.

Outside of the operation of our business, my family and I have faced real world repercussions. The best example would be a couple years ago when JP Morgan Chase decided to shut down the accounts of my then 88 year old grandmother who is in assisted living. Because my mother has been a beneficiary on my accounts since I was a teenager, and she is also the beneficiary on my elderly grandmothers account, that link was enough for them to shut down both of their personal accounts. My mother and grandmother have never bought, or been involved with the marijuana industry. Imagine shutting down the accounts of an 88 year old woman with Alzheimer's, because her grandson is involved with state legal and licensed marijuana businesses.

In addition I have personally had my accounts shut down from JP Morgan Chase, E-Trade, Scottrade, last month Wells Fargo, and RBC is pending. I pay \$2,000,000 a year in taxes to the IRS without being able to deduct any of the expenses of a normal business, such as the 115 employees we have. Our stores pay almost \$1,000,000 PER MONTH to the state of Washington in excise and sales taxes. Yet I cant even have a debit card from Wells Fargo.

Our 3 stores generate almost \$1,500,000 a month to the IRS/State in taxes between all stores/owners. Everything we do is open and transparent, tracked down to the individual unit to maintain traceability. Why am I treated like a criminal for having my money in a bank account, or trying to buy stocks? Why are my elderly, sick, grandmothers accounts shut down at a time in her life when she doesn't even recognize her family? Nationwide there are hundreds of thousands of family's that own or are employed in the marijuana industry. We are the ones bringing marijuana out from the shadows. Making sure its tested and safe. Paying the taxes, keeping the revenue from criminal organizations, and out of the hands of children. Please let us operate like normal business owners/employees and make sure someone elses elderly relative isnt the next to suffer from no fault of their own.

Ramsey Hamide
206-552-0020
rhamide@gmail.com
Washington

Hello, I have a nurse consulting business named Smith Cannabis LLC located in Portsmouth Virginia. I do not deal in cannabis products of any kind. I merely provide education about cannabis therapeutics to healthcare providers, patients and anyone who desires. I attempted to open an account at BayPort Credit Union last summer. However, the credit union turned me down based on my business name. Unfortunately, all my expenses must be put through my personal accounts. I have been able to use my business expenses as a tax deduction. It is wrong to deny individuals access to banking based on a word "cannabis". Here is my website <https://smithcannabisllc.com/>

Sincerely,
Llewellyn

Llewellyn Dawn Smith, MSN RN
Smith Cannabis, LLC
Treasurer, American Cannabis Nurses Association
Endoscopy Nurse, Sentara Obici Hospital
Staff Nurse, Ambulatory Surgery Sentara BelleHarbour
Nursing Instructor, Sentara College of Health Sciences

Our law firm used to be named Cannabis Counsel® P.L.C.

Most of our work is assisting clients seeking licensing by the State of Michigan.

Citizen's Bank closed our account.

We moved the account to Chase, and they closed it a few months later.

We changed our name to Rivertown Law Firm, P.L.C., and used an account at Chase which we opened in the new name.

Cannabis Counsel® is now an assumed name owned by Rivertown Law.

It was a big hassle for us.

Matthew Abel

Matthew Abel

matthew@cannabiscounsel.com

Cannabis Counsel®

Lawyers Who Roll The Right Way®

Registered Trademarks of Rivertown Law Firm P.L.C.

d/b/a Cannabis Counsel®

Executive Director, Michigan NORML

Detroit, Michigan

The Cannabis Cultural Association is a non-profit education and advocacy organization based in New York. While we do not engage in any aspect of cannabis commerce, we have a history of being denied access to regular banking services simply due to the topic of our advocacy.

Despite having been granted 501(c)(3) status in 2017, nearly every major banking institution denied us basic services. For months, our efforts were hampered due to the inability to function even though we are a legally compliant non-profit corporation.

After a prolonged search, we were able to identify a local bank that was willing to take us on as a client, but we are not able to access rewards programs or ease of use tools that the major banks provide.

The Cannabis Cultural Association looks forward to the day we will no longer be discriminated against by major institutions so we can benefit from the various programs they make available to every other aspect of our society.

Nelson Guerrero
Co-Founder and Executive Director
Cannabis Cultural Association
New York

I'm offering this letter to assist Senator Merkley to support [SAFE Banking Act \(S.1200\)](#) at the hearing this week. I've copied my attached letter below for your convenience to view it.

The main reason I need a bank account, is to PAY MY TAXES (federal income taxes at a rate higher than any other industry in the country, thanks to 280E, instituted in the 80s to deal with big time drug dealers deducting the cost of their criminal activities). Neither the federal government nor the State of Oregon want me to pay my income taxes, employee withholding taxes, or unemployment insurance premiums, with cash, and I cannot blame them. The Oregon Liquor Control Commission, the authority overseeing the recreational marijuana program, makes paying the 20% state marijuana tax procedurally easy, but driving once a month \$40,000 of cash an hour north to the state capital, and walking into the Department of Revenue building with it to the elevator bank is often nerve racking, since an ambitious, intelligent thief might very well know that marijuana retailers often pay their taxes by this method.

Other obvious reasons why it is highly convenient to have a bank account to conduct business include: paying employees by check (safer), paying all manner of bills with credit cards (so that tracking expenses in the bookkeeping process is well documented), being able to receive basic merchant services payments for credit/debit card transactions (like any normal business).

I have lost countless bank accounts and some credit cards because of the federal illegality of our business. This has negatively affected my personal banking and credit situation, since the incentive is for me to be less than completely candid with my personal bankers, lest I lose the ability to even hold a personal bank account, much less a normal business account. We are licensed businesses, more highly regulated than most others, from the scrutiny paid to our personal backgrounds to the comprehensive security surveillance systems that we must provide and maintain to surveil ourselves for the state regulatory authorities. Without access to regular banking services, we are compelled to conduct an unhealthy and unseemly amount of business in cash, which makes us look the tax evading criminals that we and the state do NOT want us to be. All to pay taxes at the highest rate in the land!

Lawrence Siskind,
Eugene OR

I have a 502 business in Washington state and have not been able to get a bank account since 2013.

I am a medical patient and not having a bank account leads to all sorts of problems.

Things people take for granted like paying their rent online is something I cannot do simply because I'm not allowed to have a bank account?

I must have Cannabis to control my epilepsy and should not be denied access to the same banking everyone else has access to.

Cecilia Silvertson
Washington

Please accept this letter as a demonstration of our support of the Safe Banking Act (S.1200) and our agreement that critical reform for the cannabis industry is long overdue and badly needed. Cannabis Nation, with 90 employees, is one of the top five largest cannabis employers in the State of Oregon. As a company that prides itself on compliance, we have had to face and overcome a myriad of challenges that exist only in this industry and are exponentially worsened by the lack of access to safe banking.

We have had many bank accounts, and all have been shut down – Wells Fargo, Chase, Key, Bank of the West, and just last month – Umpqua. This of course, has a ripple effect and results in many of our other services being shut down including payroll.

We have had numerous payroll services, and all (except the current one) have been shut down – ADP, QuickBooks and Am check. This resulted in some employees receiving 4 W-2s in 2017 and the following comment from our CPA “What a profound mess!”.

Challenges with Banking:

1. Payroll - Paying employees has always been one of the biggest challenges we face. With no access to banking, we were forced to pay employees cash and track all taxes and deductions and pay those with cash or money orders.
2. Recordkeeping - Vendors were and many still are using cash and were often reluctant to give receipts for purchases because the transaction was federally illegal. In the early days of the cannabis industry, many were advised by accounting professionals not to create a paper trail the government could use against them.
3. Sales Tax was paid in cash. Each month, one of the owners would drive tens of thousands of dollars of cash to the Department of Revenue in Salem.
4. The banking option we were finally able to access came at a very high price - \$1,000.00 per account per month. We have five locations subject to that fee. In addition, there are excessive and somewhat repetitive reporting requirements.
5. Benefits – We cannot provide the benefits our employees desire. Just last week our 401K program was discontinued by the bank that processes the payments citing our industry code.
6. Professional services – Accessing top professionals to assist with basic needs of the business – accounting, legal, human resources – is difficult and we are stuck with whoever will do it. They do not want to process a check from a cannabis company because they fear their account may be shut down.
7. One of our owners had his personal accounts shut down by Chase even though he had been a member at that bank since he was a teen.
8. One of our employees had his personal bank account shut down after one of our business accounts was shut down.

Thank you for allowing Cannabis Nation to share our experiences and we hope it, along with the experiences of others, helps propel the act to law.

Laurie Dart, Finance Manager

Cannabis Nation
Oregon

I'd like to thank you for all of your hard work to help end the archaic and illogical laws resulting from cannabis prohibition. My business partner and I are starting up a cannabis processing facility in Hillsboro, Oregon and have encountered many obstacles that other business start-ups do not have to suffer.

One key problem is banking. As you are aware, federal law prohibits all FDIC-insured banks to permit any cannabis-related industry from opening an account. If a commercial bank suspects that a business has violated these laws, they close the account and the business must find another alternative, which often means stashing cash in businesses and homes. This is a risk that no other tax-paying business has to deal with and opens the business and individuals to the risk of burglary or worse. Additionally, this means that a property that has a loan through a commercial bank can not rent space to cannabis companies, which distorts the rental market resulting in increased prices and scarce availability. Again, no other tax-paying businesses are forced to operate under these distorted market conditions.

To fill this void, some state credit unions have begun allowing cannabis accounts; however, because they are restricted from using the deposits in their normal fashion - to lend money, etc., and the rigorous regulatory and compliance requirements, they are forced to charge their cannabis customers exorbitant monthly fees. For example, MAPS Credit Union charges \$400/month for a cannabis account. For a start-up company with a limited budget like ours, this means not having a bank account and dealing with large sums of cash on site. This is an unfair business practice and needs to be remedied. The SAFE Banking Act (S.1200) would help fix these costly banking restrictions the cannabis industry is forced to endure. Please ask the Senate Banking Committee to vote "Yes" on S.1200 and thank you again for your support.

Respectfully,

Ken Swain

CBO

Plank Road Laboratories

Hillsboro, OR

I own a retail Cannabis store in Sequim, WA. I do have a business bank checking account, but I have to drive over an hour each way to get to the closest branch. My monthly bank checking charges are about 1,500.00. I have had many personal bank accounts closed even though I never deposited a penny of the Cannabis Store's money in them. I have also had numerous credit cards closed since I opened the store a little over three years ago. My store is not allowed to accept credit cards for purchases by VISA, M/C, Discover and AMEX. I am forced to be an all cash business with all the assorted problems that brings. Since I live in a very rural area there is only one road to the bank. I am unable to use different routes for safety concerns. I want to be able to operate like a normal business with all the banking functions a normal business requires. I want to be able to be able to make my deposits at a local bank in my town. I have 16 employees and my business is still growing. My business helps the economy grow yet I am penalized for being a Cannabis business. This is not fair.

While this is not a banking issue I am being taxed to death by the IRS because of rule 280E. I just want to operate as a normal business.

Thank you,
David Halpern
Nature's Gifts
Sequim, WA

My name is Melissa Johnson and I have worked in the cannabis industry since before legalization. Working in retail sales without a traditional banking system has a very unique set of challenges. I don't know any other small business retailer that has to make special trips to personal banks all over town to buy small bills to make change for customers. Since I have no way to make change regularly, my office has essentially become a coin and small bill storage space.

Changing banking rules will increase the safety and security of cannabis workers. For example, I have had to drive over \$100,000 dollars in cash from Bend to Salem just to pay sales taxes.

I was also denied a car loan in 2016 due to my source of income being from a cannabis industry job.

I dream of the day when I can take my daily sales to a bank and buy coin and small bills, just like I did when I worked for Starbucks. I am hopeful for the future of legal cannabis banking in Oregon.

Sincerely,
Melissa Johnson
Bend, OR



SUBSTANCE

Dear Senator Merkley:

Thank you for your commitment to increasing accessibility to financial services for legal cannabis-related businesses and your leadership on the SAFE Banking Act.

I am founder and CEO of Green Bits, a point-of-sale, inventory and compliance management platform that helps more than 1,000 legal cannabis retailers in 13 states build, run, and grow their businesses. Based in Silicon Valley, the company also has an office of 50 employees serving 300 retail customers in your home state of Oregon. Green Bits is a sector leader with more than \$2.8 billion in sales processed annually through our platform -- or approximately 1 out of every 4 dollars of legally sold cannabis in the U.S.

Projected to surpass \$30 billion in revenue by 2023 according to the 2019 Marijuana Factbook, the U.S. cannabis industry presents an extraordinary opportunity for American entrepreneurship, job creation, health and wellness, innovation, and social equity. However, a towering challenge impacting all legal businesses in the industry is that they have limited to non-existent access to basic financial services and must operate as cash-only enterprises. It is important to note that many of these constraints are not limited to licensed cannabis operators. Rather they also extend to an entire universe of ancillary non-plant touching technology and services businesses like ours.

As a commerce and compliance technology company, we know that a cash-only environment makes the sector less efficient, less transparent, and less safe. It also impedes innovation and entrepreneurship in the sector, much of which has the potential to assist state and local agencies administer and enforce regulations; further enable operators to consistently comply with state and local laws; and, ironically, provide the necessary data and information to enable robust compliance programs for financial institutions that might serve the industry.

While the small number of large enterprises in the cannabis industry can navigate the financial services constraints given their privileged access to capital, the lack of access to mainstream financial services has a disproportionate impact and burden on the vast majority of aspiring entrepreneurs and small businesses in the industry.

Financial institutions that are subject to federal oversight must be allowed to provide banking, lending and payment processing to this industry, which now has a direct or indirect impact on more than 225 million Americans living in states that have enacted some form of cannabis reform and regulation. The SAFE Banking Act creates the framework financial institutions require to serve the industry without fear of federal law enforcement. Green Bits strongly supports this legislation, and we appreciate your leadership on the bill.

Sincerely,

Ben Curren
Founder and CEO - Greenbits
San Jose, California

Dear Senator Merkley,

Thank you for your support of the cannabis industry and your attention to its imminent need for banking solutions.

From a colleague of mine, who is an ORCA member, I received the invitation to submit a testimonial to your office regarding the banking challenges facing licensed cannabis businesses in the state of Oregon. While I do not reside in Oregon, and I am not representing a particular licensed cannabis entity with this submission, Oregon is one of our fastest growing markets.

The testimonies you are collecting will reflect that the cannabis industry desperately needs secure and compliant banking options. Unfortunately, the potential for money laundering and bank fraud have made cannabis banking nearly impossible.

Our proprietary software solves that problem. It provides a payment platform through a closed-loop eWallet, and our banking partners provide the financial engine to the technology that utilizes a private decentralized blockchain ledger. Our system was designed to mirror traditional card processing so as not to require a change in consumer behavior. This has been the impetus of our ability to scale, while the transparency and immutability of the transactions ledger lowers the risk for participating banks and provides an avenue for secure tax payments.

Despite the success of our platform, very few know it exists. However, with the proper legislative support (and we do have ongoing initiatives in several states), we can continue to strengthen our offering by attracting more top level banking partners.

With that said, my team and I would appreciate an opportunity to further discuss the compliance features and operational functionality of our platform, and present how the private sector has created an innovative solution that is helping to immediately solve the industry's banking woes without having to wait for sweeping regulatory changes at the Federal level.

If you or your fellow members of the U.S. Senate are interested to learn more, please do not hesitate to contact me.

Sincerely,

Jason P. LeBlanc
Chief Compliance Officer
MTracTech Corp
Las Vegas, NV

I hope all is well for you. My name is Gabe Parton Lee, and I am the General Counsel and Director of Compliance for Northwest Confections, LLC (d/b/a WYLD), a cannabis-infused edibles manufacturer with facilities in Oregon, California, Nevada, Colorado, and Michigan.

I'm writing to follow up on a request from Jake Oken-Berg from Senator Merkley's office, reaching out to cannabis business representatives to share personal stories on the effects that the lack of traditional banking can have on businesses. For reference, we use two credit unions with our accounts that have taken great efforts to service our needs, even in multiple states. However, these credit unions have limited services and high fees.

Repeatedly Shut out of Traditional Banks

We have opened accounts with a few larger banks, and our specific bankers and their supervisors knew that we were cannabis businesses. We were careful to ensure that no obviously-cannabis-related transactions were made using their debit cards, and did not bring any cash into the bank. We were identified as a cannabis business only by a disgruntled ex-employee, and our accounts were shut down with one week notice. This required a significant effort on the end of our team to transfer to new accounts, switch over all automatic payments, and change service providers, merely because some of the underwriting team for the bank discovered that we were cannabis.

Steep Financing

We are at a phase where, due to our expansion, we seek to finance business-related expenses such as vehicles, equipment, and even small loans. Because we are unable to work through traditional banking channels, we are shouldered with interest rates that are approximately triple the prime interest rate. We have learned to accept these types of rates as "the cannabis tax"—the cost of doing business in the cannabis sector. This type of financing is not limited to marijuana, either, as our sister company that creates hemp products is shouldered with similar inability to access traditional financing. We were shut out from our car dealership's financing program, and all of our owners are forced to have numerous vehicles financed under their own personal names, resulting in repeated hits to their credit, merely to perform traditional business activities—purchasing work vehicles! This system is untenable, and prevents small business owners from expanding, as expansion requires a greater network of transportation, the ability to scale up, and access to capital. The steep interest rates are prohibitive to business interests, and particularly prohibitive to people of color, who simply do not have the same access to private equity.

Personal Struggles

One of our most productive salespeople had a bad day. A drunk driver ran a red light and T-boned our salesperson, totaling his vehicle (thankfully, nobody was injured). Our salesperson's insurance provider totaled his vehicle, so he needed a new vehicle. He tried to get a vehicle loan from his bank (a large, nationally-chartered bank), and instead of providing services, they closed out his accounts. He had to switch his accounts to a local credit union.

Similarly, one of our managers was attempting to purchase a home, and numerous mortgage brokers refused to continue working with him after discovering he was involved in the cannabis industry.

Regardless of the situation, nationally-chartered banks' fear of becoming involved in the cannabis industry perpetuates the stigma associated with cannabis, raises the barrier of entry to insurmountable levels, increases the price of doing business significantly, and increases the risk of doing business, as cash remains the primary driver of the business. Access to traditional credit card processing and banking would reduce the risk factor of carrying cash in each facility (some businesses are still paying their taxes with duffel bags full of cash--this is **absurd**). All of these negative effects can be lumped into the "cannabis tax" of doing business. The compliance reporting for each credit union requires that we certify we remain in good standing within each state we operate, and prove our revenues through sales reports. However, if this is the price to pay to do business, we will continue to do it.

The SAFE Banking Act would bring competitive banking rates into the cannabis industry, allow for traditional financing and bank loans, and would destigmatize the industry's status. The cannabis industry is an economic driver in the U.S., and should be supported, not reviled. The industry is a great employer (in just over three years, we've gathered a 200-person strong full-time workforce, paying \$15/hr, with fully sponsored health, vision, and dental insurance benefits), and having the banks involved would allow us access to provide additional benefits to our employees. The banks want to be involved in our business, and the SAFE Banking Act would be sufficient insurance for the banks that they would be able to provide services to the many cannabis businesses in the U.S.

Thank you for taking public input on this vitally important issue to the cannabis industry. We cannot thank Senator Merkley enough for his continued support and advocacy on behalf of the cannabis industry.

Please do not hesitate to contact me with any questions.

Gabe Parton Lee

Director of Compliance | General Counsel
Northwest Confections

Where do I begin?

I officially launched HighSpeed in July of 2015. It was a very pivotal moment for me, transitioning from a black market experience to an above ground start-up which at the time was more so Grey than anything. Nonetheless, we were active, progressive and building traction.

The goal was to provide a seamless experience for customers trying to obtain cannabis safely as well as rebranding the negative stigma behind the plant. Part of ensuring that safety requires the money to move with ease. Having a cash based business creates a lot of room for vulnerability from an internal standpoint as well as an external one and is *not* the way of the future. Our goal was to stray away from that.

Presented below in "bold" are some of the negative responses characterizing the problems we encountered:

(1) Amazon Pay Account

"Hello,

We have closed your Amazon Pay account, canceled any pending transactions, and placed a temporary hold on any funds in your account. Any new accounts you open will be closed. We took these actions because your website <https://tryhighspeed.com> be in violation of our Acceptable Use policy. This policy prohibits the use of our payment service for any transactions involving drugs, including illegal drugs, drug paraphernalia, online or mail order pharmacies, importation of pharmaceuticals from foreign countries, and prescription devices. To learn more about this policy, click the "User Agreement/Policies" link at the bottom of the Amazon Pay site and then click "Acceptable Use Policy" (<https://payments.amazon.com/>). We encourage you to take appropriate steps to resolve any pending orders. Note that any amounts paid as a result of A-to-z Guarantee claims and chargebacks may be deducted from your account. After 180 days, the hold will be removed and any remaining funds will be available for withdrawal. If you have questions about your funds, please write to amazon-payments-investigate@amazon.com. If you would like to appeal this decision, please click the Appeal button next to this email on the Notifications page in the Performance section of your Seller Central account (<https://sellercentral.amazon.com/gp/customer-experience/perf-notifications.html>)."

We have received similar responses and stories across the board from all the major players in the processing space: **Paypal, Stripe, Square/Cash, Venmo**, you name it.

Each time this happened we were left in very uncomfortable situations given the fact every time the funds are held up we were talking about amounts of no less than \$10k - all the way up to \$35,000. In total we have lost up to \$200k when you add the 3rd party "highrisk" processors that don't even give you the promise of receiving your funds at a later date. These funds being held up for up to 6 months throws you into a crazy predicament given the fact the it doesn't reflect a lack of customers, instead it reflects a lag in cash flow - which affects employees, vendors, and fixed expenses that businesses incur every month - not to mention taxes and state fees. *How can one sustain a large team without access to your own capital? It's already hard enough to accept the fact that securing a line of credit or obtaining a business loan is literally impossible under the premise of anything remotely cannabis-related.* This leads to my next point:

To make matters worse, there is absolutely NO certainty when it comes to keeping a bank account open. When I started HighSpeed - which has always been registered as a technology company first, Bank Of America was my institution of choice. I actually was able to open the account with no issue in the very beginning. It wasn't until things started taking off in April of 2016 that the problems began to arise. One by one, account after account would eventually get shut down at a moment's notice with no time to prepare for a change. Even when we would register under Capital Juice, our sister company, that made everything legal under the state legislature in every place we were operating. By the time January 2018 came around we had been **dismissed** from *Wells Fargo*, *Capital One*, *Chase Bank*, *CitiBank*, *PNC*. By sheer luck we were able to find a stable relationship with TD Bank, however, they advised us to refrain from applying for a loan or any special services because it would "only expose the true nature of our business resulting in an immediate account closure."

This is no way to exist when running a business, talkless of surviving given these circumstances. To survive, a business needs to have enough cash in reserve or funding to withstand these inevitable hardships. Sheer gusto will only land a business owner in prison. As is evident from the story above in the responses and situations we have narrated, continuing to do business that is related to any cannabis product presents a huge predicament especially when it comes to the issue of banking and funding the business operation, accessing loans and staffing the business.

Thanks for listening,
David Umeh
Founder and CEO
High Speed Juice Capital
Washington, DC

Dear Senator Merkley,

As you are a long-time advocate for the cannabis industry, we know that you are already familiar with the difficulty legal businesses like ours experience with banking discrimination. I am honored that you participated in my video interview with Rep. Earl Blumenauer and Tyson Haworth, owner of sofresh farms and my employer, Oregon's Finest, shortly after I was hired. It was great that it was so widely distributed by *Time*, *HuffPost*, *OregonLive*, and *Raw Story* so that the world could see the absurdity of doing business in cash.

Currently, cannabis is legal for medical use in 33 states and the District of Columbia and for recreational use in 11 states and the District of Columbia, yet our federal government has not yet decriminalized the use and possession of a plant that's been known to have medicinal uses for over 10,000 years.

We are grateful for your support of the Secure and Fair Enforcement (SAFE) Banking Act. It is a near miracle that the Senate Banking Committee hearing is happening on July 23rd. I congratulate you on obtaining 237 co-sponsors and urge you to continue to be our most vocal advocate. The revolution has begun and the momentum you have right now is crucial in our fight for equity.

I went down to the Capitol for the Oregon Retailers of Cannabis' Lobby Days, and it was surprising how many senators had never spoken to someone in the cannabis industry. We found ourselves explaining the impact of the misguided War on Drugs and unfair banking restrictions and taxation to the very people who make the laws about cannabis.

As Dr. Rachel Knox, my colleague on the Portland Cannabis Policy Oversight Team, recently suggested, there really should be cannabis competency training for our public officials. No one seems to know about the 280E tax burden we have on our industry, which ironically allows us to deduct the cost of goods sold (aka cannabis) but not everyday costs of doing business like rent and payroll.

Oregon's Finest has had our bank accounts shut down and our debit processor go out of business due to banking regulations. We are fortunate to be able to currently bank with MAPS Credit Union. However, when we started banking at MAPS, it cost us \$40,000 annually in banking fees. We currently pay almost \$20,000 annually in banking fees to have this access and we feel that even though they reduced their fees, this is discriminatory – especially when any other retail business wouldn't have to pay any banking fees.

We recognize that there has to be a major shift at the federal level for cannabis to be either de- or re-scheduled. According to *Forbes* "US Patent Office Issuing Cannabis Patents to Growing Market" (7/24/17), there are currently over 500 active cannabis-related patents. In fact, the first cannabis patent was to the US Dept. of Health and Human Services (US 6,630,507). Cannabis has no place in the Controlled Substances Act when it now has known medical benefits. I can personally speak to the health benefits and I tell as many people as I can that every mammal has an endocannabinoid system – it provides our bodies homeostasis. That fact alone helps break the stigma in conversations.

Not every business will survive with the government's banking and tax burdens. We want small, local businesses to thrive and we hope we are a success story for Oregon. Most of the struggling retail dispensaries in Oregon have been bought up by Canadian money. There won't be many shops like ours left now that we've hit peak market saturation. I hope that with your

continued leadership the SAFE Banking Act will provide fair banking access for our industry and make this dream to do business legally and fairly a reality.

Thank you,

Stephanie Neil
Compliance & Sustainability Manager
Oregon's Finest

My Name is Stephen Sweeney, and I own Bobsled Farms, Extracts, and Wholesale (OLCC-licensed businesses here in the great state of Oregon! And clients of Tonkin Torp.) Just this last month, we partnered with a group out of Oakland, California to expand our Oregon-based company into a second state. And hopefully this is just the beginning. I also have an online CBD business, as well as an ODA-certified hemp processing lab here in Oregon. I believe we have several associates in common. My business partner is Jack Naito, I think you know his father Bob Naito. My best friend since birth is Max Brantley, I think you also know his father Marty Brantley. And last but certainly not least is my stepmother Cate Millar, I believe you two worked together back when legal cannabis was still just a pipe dream.

First of all, I want to thank you for your continued support for us cannabis business owners out here on the west coast, who are fighting to profit in this ever-evolving, emerging industry. I have been fortunate enough to cross paths with Congressman Earl Blumenauer, with whom I've discussed my banking struggles, and I sincerely appreciate you taking the time to hear my concerns as well. I extended an offer to the Congressman, the same one I will to you: if you ever want to come out and tour my farm, extraction lab, or wholesale distribution center to see what we do, you are always welcome!

Banking for me has been an absolute nightmare. Let me start by saying that I am permanently banned from both Wells Fargo and Chase banks, my business AND personal accounts (for all my companies, not just those involved in cannabis). I am not a criminal, and never dealt on the black market prior to state legalization. I have perfect credit, two other businesses outside of cannabis and CBD, and pay my state and federal taxes on time every year. Yet banks still treat me as though I am a criminal.

I run a management company which holds all my cannabis company assets, yet doesn't actually touch the plant. For a time, this allowed me to account for cash at my office and make deposits into my Chase bank account as a management payments, rather than depositing profits from the sale of cannabis. This worked until we reach a large enough volume of cash that they began to ask questions. It actually wasn't the cash that got us shut down, it was the check deposits. Cannabis dispensary companies predominately involve the words "green," "leaf" or just straight "cannabis" in their name, and these were obviously red flags. When Chase closed my account, they froze \$154,000 for weeks. This forced me to pay my companies' entire \$55,000 bi-weekly payroll out of my own pocket for two consecutive pay periods. There was also an issue in that they gave me that \$154,000 in the form of a cashier's check, and I didn't have a bank account to deposit that into. The really interesting part of all this is that despite closing all my bank accounts, Chase chose NOT to shut down my company credit cards (likely due to the \$65,500 monthly limit!) When I asked the banker at Chase who told me the accounts were closed if they were shutting off the credit cards as well, she laughed and responded, "No, the 3% transaction fee makes us WAY too much money on that one!"

At that point, I moved my business accounts to Wells Fargo while I waited for my applications with Salal and MAPS credit unions to clear. Salal turned me down because my business partner (an honorably discharged member of the U.S. Army and long-time OMMP cardholder, grower, extractor, and patient) did not have credit over 700 (though mine is perfect). MAPS Credit Union did grant us an account for \$400 per month, which has at least allowed us to bank again. However, the nearest location is nearly an hour drive from Portland, where my business is located. For the first few months our account was open, I was forced to make that drive once a week carrying around \$100,000 in cash, just me in my truck. Eventually I found the ONE armored car company that will service the cannabis industry, and they are questionable at best.

They don't even use armored vehicles (just a van about as sturdy as my truck), and have simply forgotten pick-ups that were scheduled weeks in advance. The fact that I have to entrust the bulk of my revenue with this service on a weekly basis keeps me up at night. But that is currently the only option afforded to me.

As I said at the start, my company has just recently joined the California cannabis market, which anyone can blatantly see needs regulated banking. The amount of money flying around without documentation is mind-boggling for an Oregon small business owner such as myself. I finally found my way to a credit union in the bay area down there willing to extend an account to me, and they are asking for \$3,000 a month **per** account (with both checking **and** savings required!) As you can imagine, this is untenable at best.

In sum, this is just the tip of the iceberg when it comes to my problems banking in the cannabis industry. I have many more stories to tell! I greatly appreciate you taking the time to hear my concerns, and for tackling this issue that really is of critical importance. Too few Members are wise or brave enough to take this on at this time, and the problems are only growing as the industry continues to grow. I am happy to assist in any way moving forward, and if you have any questions please don't hesitate to ask. Thank you again for your time, have a great weekend.

Sincerely,

Stephen M. Sweeney
CEO
Bobsled Farms, Extracts & CBD
Oregon



Challenges for Cannabis and Banking: Outside Perspectives

Testimony before the Committee on Banking, Housing and Urban Affairs

United States Senate
July 23, 2019

Saphira Galoob
Executive Director, National Cannabis Roundtable

On behalf of the National Cannabis Roundtable (NCR), I appreciate the opportunity to submit written testimony for the Senate Committee on Banking, Housing and Urban Affairs's hearing on the cannabis industry's need for access to banking services. In particular, we applaud this committee's leadership to align our country's financial regulations with the fastest growing business sector in the United States.

We support the Secure and Fair Enforcement (SAFE) Banking Act, which would ensure that lawful and regulated cannabis businesses have access to banking, while ensuring that safe and sound financial standards and procedures remain in place for the financial institutions interested in offering services to this marketplace. We urge Congress to provide states with the means to bank, track and tax this significant economy.

NCR promotes common sense federal regulation, tax equality and financial services reform for regulated cannabis businesses by advocating for changes to federal law that acknowledge states' rights to regulate and manage cannabis policy. We are proud to be part of a growing debate about how to transform and modernize our national cannabis policy thoughtfully and comprehensively.

The membership of the National Cannabis Roundtable represents every aspect of the cannabis supply chain, including growers, processors, retailers, wellness centers, investors, entrepreneurs and publicly traded companies. Our Members have an established commercial presence in 23 states with legal cannabis programs, including the

District of Columbia, serving more than 172 million Americans.

As this committee is aware, a robust and sophisticated, regulated, licensed cannabis industry is now present in 33 states across the US¹, in addition to 47 states that have enacted laws regulating or decriminalizing cannabis.² By the end of 2019, state ballot measures could result in even more states with comprehensive legalized cannabis laws.

Public support for states to enact their own cannabis laws is at an all-time high. Sixty-two percent of Americans support regulated cannabis for both medical and adult consumption³ and 93 percent of Americans support regulated medical cannabis.⁴

At a time of unprecedented partisanship, a regulated cannabis market stands out as an area of genuine bipartisan agreement.

However, given the current designation of cannabis under federal law, every one of these lawfully licensed and regulated business are operating on an uneven playing field regarding tax treatment and access to financial institutions. By conservative estimates, there are more than 10,000 cannabis businesses - and innumerable service providers working with these businesses - in the US and these numbers are growing every month.⁵

The cannabis industry will generate an estimated \$12.9 billion in sales in 2019, according to New Frontier Data.⁶ Sales are expected to exceed \$26.3 billion by 2025, as more states including Arkansas, California, Florida, Maine, Massachusetts, New York, Ohio, Pennsylvania and West Virginia expand existing and initiate new cannabis programs.⁷

¹ National Conference of State Legislatures. "State Medical Marijuana Laws." 11 Feb. 2019.

² Mindy Bridges, and Karmen Hanson. "Regulating Hemp and Cannabis-Based Products." *National Conference of State Legislatures*, October 2017.

³ Hartig, Hannah, and Abigail Geiger. "62% Of Americans Favor Legalizing Marijuana." *Pew Research Center*, 8 Oct. 2018.

⁴ Quinnipiac University. "Support for Marijuana Reaches All Time High." 26 Apr. 2018.

⁵ <https://money.cnn.com/2018/01/31/news/marijuana-state-of-the-union/>

⁶ Craig Boyte. "2019 Outlook: Surging Adult Use Sales Drive Legal Market Growth." *New Frontier Data*, 2 Feb. 2019.

⁷ New Frontier Data. "\$86 Billion in Additional U.S. Tax Revenues by 2025: New Frontier Data Projects Federal Cannabis Legalization Will Boost Growth Across Many Industries as 116th Congress Discusses Cannabis Policy." *New Frontier Data*, 29 Jan.

Operating these multi-million dollar businesses without access to basic financial services translates to significant complications, including payments to employees, rent, taxes and professional service providers made in cash.

As these businesses continue to grow, the current regulatory climate is neither tenable nor safe for businesses and the communities in which they operate. Billions of dollars of unbanked cash generated by the state-based legal and regulated cannabis industry flows without federal oversight. A change in federal policy would not only ensure access to financial services for licensed and regulated cannabis businesses, it would mean that every dollar generated would be banked, tracked and taxed.

Even with the tremendous benefits that a regulated cannabis economy has already brought to states with legal programs, we understand that many unanswered questions remain with regard to potential negative impacts of legal cannabis.

The first step to reconciling - and addressing - these complexities is the adoption of the SAFE Banking Act. This bill ensures that lawful and regulated cannabis businesses have access to banking and capital markets, while ensuring that safe and sound financial standards and procedures remain in place for the financial institutions interested in offering services to this marketplace. By adopting this measure, this committee is neither addressing the legality of cannabis, nor the morality of cannabis. Rather, it would be establishing the necessary statutory foundation for federal agencies which oversee financial services regulations to ensure that effective and efficient policies are in place and include anti-money laundering (AML) and know your customer (KYC). It would further allow those financial institutions - which seek to establish business relations with lawfully regulated businesses - the statutory basis for doing so.

Lawfully regulated businesses and service providers in the cannabis industry must have the same access to fundamental banking as other industries in the US. We applaud the committee for holding today's hearing and look forward to working with Members of Congress to ameliorate the issues created by the federal government's continued policy of prohibition.



Jim King
Executive Vice President
Chief Communications Officer

1111 Scottsblain Road
Marysville, OH 43041
p 937.644.0011

July 22, 2019

The Honorable Mike Crapo
Chairman
Senate Committee on Banking
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Senate Committee on Banking
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown,

I am writing to you regarding the upcoming hearing of the Committee entitled "Challenges for Cannabis and Banking: Outside Perspectives."

The ScottsMiracle-Gro Company is the quintessential American business. Established in 1868 in Marysville, Ohio, the ScottsMiracle-Gro name is synonymous with America's love for their lawns and gardens. ScottsMiracle-Gro pioneered consumer seed and fertilizer applications in the United States and it continues to be headquartered in the same town in which it was established 150 years ago. ScottsMiracle-Gro is also a leader in the evolution and emergence of indoor and urban gardening through its subsidiary The Hawthorne Gardening Company.

With approximately 6,000 associates at more than 65 U.S. locations in 26 states, ScottsMiracle-Gro has small and large manufacturing plants in the heart of America. At these locations, the subsidiaries of ScottsMiracle-Gro, including Hawthorne, manufacture products by American workers for American consumers, with over 95 percent of profits coming from the United States.

ScottsMiracle-Gro manufactures a wide range of products, including soils, mulches, lawn fertilizers, plant food, pest controls, smart garden technology, durable applicators and spreaders, and, more recently through Hawthorne, hydroponic growing systems, nutrients, and components that help consumers grow healthy plants and create beautiful landscapes in any environment, including inside structures for homes and businesses. These hydroponic systems can be used to nurture a wide variety of plants, including cannabis.

Because our company and our subsidiaries do not touch the plant directly, we do not face the current financial complications that many of our customers do who lack access to traditional banking services. The current dichotomy between federal and state laws has allowed a robust industry to develop without the basic ability to bank proceeds and operate businesses in a truly legitimate fashion.

We applaud the committee for taking the time to learn more about the challenges of this current arrangement and encourage you to examine the many different aspects of the banking issue during your evaluation of the topic. As an American company with over 150 years in our business, we have many unique insights about this emerging industry and would be happy to share those perspectives as the members continue to learn more about this issue and develop solutions to address this situation.

Thank you for your attention to this matter.



Jim King
Executive Vice President
Chief Communications Officer
The Scotts Miracle-Gro Company

CC: The Honorable Jeff Merkley, United States Senate
The Honorable Cory Gardner, United States Senate



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

July 24, 2019

Re: Challenges for Cannabis Banking: Outside Perspectives

Chairman Crapo, Ranking Member Brown and members of the Committee, thank you for allowing me the opportunity to submit testimony for the record today. I applaud your willingness to host today's hearing on the challenges in the banking industry to serve legitimate cannabis clients.

Cannabis banking has been at the forefront of the industry conversation since 2012, when adult use cannabis was legalized in Colorado. As of June 25, 2019, 14 states and territories have approved adult-use cannabis with a total of 34 states, The District of Columbia, Guam, Puerto Rico and the US Virgin Islands allowing for medical cannabis programs. With the prevalence of legal cannabis programs across the country, the conflict between federal and state laws is exacerbated, especially as it relates to financial services.

In my role as a state bank supervisor, I am responsible for the safety and soundness of state-chartered banks and credit unions. These institutions lack clear federal guidance on banking the cannabis industry, causing legitimate, legal businesses to face serious commercial risk. Right now, if you are the owner of a cannabis-related business in a legal state, you will find it difficult to obtain comprehensive, safe, regulated, and tracked financial services. In fact, many of these business owners have no choice but to participate in an underground economy. Until state-chartered institutions have clear federal guidance on how to serve the cannabis industry, consumers and the financial system will be at risk.

The concerns I have regarding the conflict between state cannabis programs and federal statutes are not just my own. On April 15, 23 state bank supervisors joined me in urging Congressional Leadership to take action. A copy of the letter has been submitted as a portion of this testimony.

While I endorse the action Congress has taken through appropriations riders, it must go further. We can no longer delay the ability of state-chartered financial institutions to provide transparent and safe banking to the cannabis industry.

I appreciate your time and would be pleased to answer any follow-up questions you might have.

A handwritten signature in blue ink that reads "Robin L. Wiessmann".

Written Statement of A. Marc Perrone
President, United Food and Commercial Workers International Union

Submitted to the Committee on Banking, Housing, and Urban Affairs
U.S. Senate
Hearing on "Challenges for Cannabis and Banking: Outside Perspectives"

July 23, 2019

As President of the United Food and Commercial Workers International Union (UFCW), I am proud to help build a better life for over 1.3 million hard-working men and women who work in highly regulated industries such as grocery and retail stores; manufacturing and chemical plants; health care facilities and pharmacies; food processing and meat packing plants; and in the emerging legal cannabis industry. Our cannabis members can be found across multiple states in growing and cultivating facilities, manufacturing and processing facilities, and in laboratories and dispensaries.

Wherever cannabis is legalized, the UFCW is committed to building a successful industry with a thriving, diverse, and skilled workforce. Union cannabis jobs provide good family-sustaining wages and benefits, while generating spending in local communities, and supporting a robust economy.

Cannabis is legal in some form in 33 states and the District of Columbia, and in each of those jurisdictions there is strong and dynamic regulatory landscape. States employ a strict regulatory framework including a seed-to-sale tracking system to monitor the growth, distribution, and sale of regulated cannabis to prevent diversion and create a transparent, accountable market.

Workers face challenges in all jobs, but few workers face the unique challenge of a federal prohibition on access to legal banking. Without access to banks, cannabis businesses have little choice but to do business in cash. Customers pay in cash, workers are paid in cash, supplies are bought in cash, investments are made in cash, taxes are paid in cash and all that cash must be securely stored and transported. These large cash transactions creates safety and financial problems for businesses, customers, workers, and the communities they serve.

In order for workers in the legal cannabis industry to have the same opportunities as other workers, Congress must directly address the cannabis banking challenge and align federal and state laws.

This cash dominated industry puts workers at risk

When cannabis businesses cannot accept checks, credit cards, or debit cards in their establishments, it means that workers, vendors, and tax collectors must change the way they do business. Without access to a federally-insured bank, employers must find alternative arrangements to pay their workers, which currently means paying them with cash.

Mitch Bickar is a UFCW cannabis worker from Bothell, Washington where the state worked with local banks and credit unions to give workers and employers access to traditional banking. "I take pride in working in this growing industry in Washington," he explains. "My job as a Lead Inventory Coordinator at Have a Heart provides good wages, and because of the union my voice is heard at work. I am grateful that unlike other states, Washington provided us with the ability to have access to banking instead of

being paid in cash. I would not feel safe walking out the door on payday with everyone knowing that I had two week's wages in cash on me."

Outdated laws make it difficult for workers to borrow money

Imagine this scenario: a cannabis worker applies for a house or car loan, but has difficulty proving they have the income necessary to pay the loan back since their employer does not provide a paystub. Even if they are able to prove that they have the income, they may still be denied or forced to accept a higher interest rate because federal law deems their work to be illegal. Sadly, this is the reality for many workers in the cannabis industryⁱ.

The lack of uniform treatment of cannabis by federal, state and local laws has resulted in workers across the country being denied personal loans for homes and cars— even when they have high credit scores. In fact, the Federal Housing Authority's (FHA) loan program explicitly denies loans for workers in the cannabis industry due to federal prohibition of the substance.ⁱⁱ

Worker payroll tax and benefit programs deductions are ambiguous

The decision to continue to classify cannabis as a Schedule 1 narcotic with all the associated prohibitions and limitations, while 33 states have legalized cannabis, has led to confusion and uncertainty for the workers who are just trying to do their jobs and support their families. When workers operate in an environment without the certainty of a conventional payroll system- even when employers have every intention of doing the right thing- it is unclear if benefits such as Social Security, disability, unemployment insurance, Medicare, and Medicaid will be there when they are needed.

When employers gain access to conventional banking, their workers get the economic security of a steady paycheck, as well as the peace of mind knowing their payroll taxes and benefits are being properly funded.

The current patchwork of state laws could cost the U.S. economy billions in lost tax revenue

Cannabis is currently a \$9 billion industry, which is equivalent to the entire market for snack foods.ⁱⁱⁱ The industry is growing at a rapid rate and industry experts predict there will be \$75 billion in cannabis sales by 2030.^{iv} The cannabis industry is also the fastest-growing job category in the United States with an estimated 125,000 – 160,000 full-time jobs in 2018, an increase of nearly 45 percent from 2017.^v By 2022, the cannabis industry is expected to grow at a rate of approximately 21 percent per year and support up to 340,000 full time jobs.^{vi}

Local, state, and federal governments are losing out on tax revenue while cannabis remains illegal at the federal level. If federal prohibition ended and cannabis were to become legal in all 50 states, it would generate \$132 billion in tax revenue, with the federal government alone collecting \$51.7 billion.^{vii}

The state of Washington shows that banking works

States are leading the way in passing legislation and regulations that ensure a safe, legal, and thriving cannabis industry. In Washington state, the state government worked with local credit unions and small banks to encourage them to accept business from dispensaries.^{viii} This resulted in the state collecting \$319 million in taxes and fees in the 2017 budget year, 95 percent of which came in forms other than

cash.⁴⁸ The state of California, on the other hand, was forced to shift resources in their Department of Tax and Fee Administration to accommodate businesses paying their taxes in cash,⁴⁹ delivered by armed guards in armored trucks.⁵⁰ By giving the industry access to banking in Washington, it became easier for business to pay taxes, and cost the state less to collect them - a benefit to both businesses and taxpayers.

UFCW members in Washington have said that they like the state cannabis laws because they provide payroll stability. A regular paycheck goes hand in hand with a good wage, quality affordable care, and a secure retirement- these are the keys to a better life, and the pillars of the UFCW.

Congress should support safe, legal banking for cannabis workers

On behalf of all the workers in the cannabis industry, we urge Congress to act quickly to give the same access to the financial systems and federal benefits that all other American workers already enjoy. A majority of states have some form of legal cannabis and it is imperative that the federal government update our nation's banking laws to include this new and growing industry. Hardworking Americans in the cannabis industry do not deserve to be treated as criminals and should not have to struggle with financial and legal ambiguity while on the job.

Chairman Crapo, Ranking Member Brown, and members of the Senate Committee on Banking, Housing, and Urban Affairs, thank you for your consideration.

⁴⁸ "Workers feel the effects of banking issues in the burgeoning marijuana industry," Faith Miller, 3 October 2018. Colorado Springs Independent. <https://www.csinvy.com/coloradosprings/workers-feel-the-effects-of-banking-issues-in-the-burgeoning-marijuana-industry/Content?oid=15777766>

⁴⁹ "Federal Prohibition of Marijuana Restricts Lenders Ability to Issue Loans to Borrowers Employed in the Marijuana Industry," Hinshaw and Culbertson LLP. JDSupra.com. <https://www.jdsupra.com/legalnews/federal-prohibition-of-marijuana-43395/>

⁵⁰ "Legal Marijuana: The \$9 Billion Industry That Most Banks Won't Touch," Kevin Murphy. Forbes.com <https://www.forbes.com/sites/kevinmurphy/2018/09/06/legal-marijuana-the-9-billion-industry-that-most-banks-wont-touch/#43a9a5443c68>

⁵¹ "Cannabis: \$75B Opportunity; Category Cross-Currents Keep Us Cautious On Booze," Vivien Azer, Brian Nicholas Velez, and Gerald Pascarelli. Cowen.com <http://www.cowen.com/reports/cannabis-75b-opportunity-category-cross-currents-keep-us-cautious-on-booze/>

⁵² "Marijuana Is The Fastest-Growing Job Category, Top Recruiting CEO Says," Tom Angell. Forbes.com <https://www.forbes.com/sites/tomangell/2018/04/09/marijuana-is-the-fastest-growing-job-category-top-recruiting-ceo-says/#834b3aa66874>

⁵³ "Cannabis industry supports up to 160,000 full-time jobs, with more growth on horizon," Eli McVey. MI Biz Daily. <https://mibizdaily.com/chart-cannabis-industry-supports-over-125000-full-time-jobs/>

⁵⁴ "Study: Legal marijuana could generate more than \$132 billion in federal tax revenue and 1 million jobs," Katie Zezima, The Washington Post, 10 January 2018. These estimates are based on a 15 percent retail sales tax, payroll tax deductions, and business tax revenue- not taking into consideration local taxes and license fees, or additional potential taxes specific to the industry.

⁵⁵ "The Credit Unions and Small Banks That Solved the Cannabis Cash Crisis," Lester Black. TheStranger.com, 19 April 2017. <https://www.thestranger.com/green-guide-spring-2017/2017/04/19/2508313/the-credit-unions-and-small-banks-that-solved-the-cannabis-cash-crisis>

⁵⁶ "Pot is legal in 10 states, but the industry still can't use banks. Will Congress change that?" Kate Irby. The Sacramento Bee, 11 February 2019. <https://www.sacbee.com/news/politics-government/capitol-alert/article225923620.html>



Thornton City Hall
9500 Civic Center Drive
Thornton, CO 80229-4326
www.cityofthornton.net

Office of the Mayor and City Council
303-538-7200
FAX 303-538-7562
www.cityofthornton.net

October 15, 2019

Senator Mike Crapo
Chairman
Senate Banking, Housing, and Urban Affairs Committee
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Crapo,

On behalf of the City of Thornton Colorado, we write to you to provide for consideration of H.R. 1595, the SAFE Banking Act sponsored by Congressman Ed Perlmutter (D-CO). We believe that the SAFE Banking Act will provide necessary certainty to our banks and financial institutions in Thornton as they struggle to determine the proper balance that would allow them to process financial transactions from marijuana businesses and also provide those businesses with the financial and physical security that comes from reducing large cash only transactions.

As you may know, the City of Thornton made a decision to legalize the sale of marijuana for recreational purposes in 2015. Since that time, the City has licensed three retail marijuana stores with an anticipated fourth in the future to allow for commercial sale and has worked with these stores to determine the best path forward for financial integration and regulation.

Since legalization, we have heard from some of our stores that a potential lack of access to credit unions, waitlists for accounts, denial of access to capital loans, and the general security risk of numerous cash transactions have made it quite difficult to conduct business. Given this information and the desire of the City of Thornton to ensure commercial opportunity and commercial security, we strongly support the passage and enactment of the SAFE Banking Act.

The City of Thornton receives an annual range of \$1.2 - \$1.7 million through marijuana sales tax. We believe that by creating a proper regulatory structure for marijuana business financial transactions, the SAFE Banking Act will stabilize the sales tax revenue generated from these transactions allowing us to better budget for essential services.

Thank you for the opportunity to write in support of the SAFE Banking Act. Should you require additional information about our experience please contact Lynn Jacquez, our representative in D.C. at (202) 465-3000.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Williams', written over a horizontal line.

Heidi Williams, Mayor