

# STATE CANNABIS LAWS: A PROGRESS REPORT

SUCCESSIONS, CHALLENGES, AND THE NEED  
FOR CONGRESSIONAL ACTION



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## ORIGINALLY PREPARED FOR

The National Cannabis Industry Association

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# EXECUTIVE SUMMARY

## About the National Cannabis Industry Association

Representing nearly 2,000 member-businesses across almost every state in the U.S., the National Cannabis Industry Association (NCIA) is the largest trade association for the nation's rapidly-growing state-legal cannabis sector. NCIA was founded in 2010 to promote the growth of a responsible and legitimate cannabis industry and work for a favorable social, economic, and legal environment for marijuana businesses in the United States.

NCIA publicly advocates for the unique needs of the emerging cannabis industry and defends against threats to the state-regulated medical and adult-use cannabis markets. As the nation's most established and broadly representative industry-led organization engaging in legislative and policy efforts to expand and further legitimize the state-legal cannabis market in the United States, NCIA works extensively at the federal level to create policies that allow individuals, businesses, and states to fully realize the economic and societal benefits of legalized cannabis in a responsible way.

## About this report

The United States is currently experiencing a political, social, and economic evolution in how it treats cannabis. State-legal cannabis markets are no longer in their infancy and are proving to be a significant source of jobs, tax revenue, and economic stimulation in states that were early to embrace its potential. State regulations and licensing programs are also proving to be more effective at keeping cannabis out of the hands of minors than the illegal actors who inevitably serve cannabis consumers in states still operating under prohibition policies.

It has been more than two decades since California voters adopted the first modern state medical cannabis program with the passage of Proposition 215 in 1996. Since that time, 33 states, the District of Columbia, and several U.S. territories have adopted comprehensive medical cannabis programs, enabling millions of patients to obtain relief from a variety of conditions and improve their quality of life. In states with legal access to cannabis, many patients are successfully using it as an alternative to dangerous opioid pain medications. An additional 14 states have passed more limited laws that allow for the possession and use of high-CBD (cannabidiol), low-THC extracts, leaving just three states without a medical cannabis law.

In 2012, voters in Colorado and Washington State approved ballot measures to legalize marijuana possession and use for adults 21 and older and to tax and regulate licensed businesses to grow, process, and sell cannabis in retail stores. While many policymakers and observers were skeptical of these initial adult-use tax and regulate programs, time has demonstrated that they are sound policies delivering substantial benefits to the residents of their states, while fears that the sky would fall have never materialized.

On the heels of the first legal adult-use retail sales of marijuana in 2014, voters in Alaska, Oregon, and the District of Columbia approved legalization measures, followed by California, Maine, Massachusetts, and Nevada in 2016, and then Michigan in 2018. Juxtaposed against these landmark victories, the appointment of Jeff Sessions as U.S. Attorney General created significant concern in the cannabis industry as well as among the administrators of the state and local government programs now dependant

upon marijuana tax revenues. But in the wake of Attorney General Sessions' January 2018 rescission of the August 2013 Department of Justice guidance memorandum generally deprioritizing conduct compliant with state marijuana laws (known as the "Cole memo"), lawmakers across the country only grew more determined to work towards sensible marijuana policies.

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**"In 2016, President Trump said marijuana legalization should be left up to the states and I agree."**

**—Senator Cory Gardner (R-CO)<sup>1</sup>**

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Shortly after the Cole memo rescission, Vermont approved legislation allowing adults 21 years of age and older to cultivate, possess, and consume cannabis. Meanwhile, several new prominent members of Congress from both sides of the aisle spoke out against the notion that the federal government should undermine or interfere with the implementation of state marijuana programs. When Republican and Democratic leaders begin to agree on policy, legislative change becomes a real possibility. This is the new political reality for cannabis in 2019.

When Jeff Sessions resigned in November 2018, many advocates were left wondering how the next attorney general would treat the cannabis issue, particularly whether that person would order federal prosecutors to crack down on state-legal businesses. During the confirmation process, however, nominee - and now Attorney General - William Barr said that he would not interfere with the expectations that had been established during the Cole years. Despite not

supporting legalization, Barr reiterated that he would not direct the Department of Justice to target businesses that are in compliance with state law, and urged Congress to address the disparity between state and federal marijuana laws.<sup>2</sup>

## Why is marijuana legalization and regulation important?

The legalization and regulation of commercial production and sales of cannabis for adults has brought significant economic benefit to the states that have adopted these types of laws. For example, the cannabis industry has been able to provide a substantial source of revenue for states that implemented tax and regulate programs. States that have enacted adult-use and medical cannabis laws have also experienced positive societal impacts. As the opioid overdose crisis has grown in several areas of the country, states where patients have access to medical cannabis have experienced an average reduction of 24.8% in fatal opioid overdoses.<sup>3</sup> This has happened while teen use has generally decreased or held steady in the wake of the legalization and regulation of adult-use cannabis. Fears that highways would become plagued with increased fatalities caused by marijuana-impaired drivers have not materialized, with several states actually experiencing decreases following the adoption of legal adult-use cannabis programs. In addition, crime has generally decreased following legalization, as arrests have dropped and retail marijuana stores have been shown to create a small but measurable dampening impact on local crime. And of course law enforcement is now free to use their limited resources to investigate serious crimes.

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<sup>1</sup> "Gardner Statement on DOJ Marijuana Legalization Enforcement." Office of Senator Cory Gardner, Jan. 4, 2018, <https://www.gardner.senate.gov/newsroom/press-releases/gardner-statement-on-doj-marijuana-legalization-enforcement>.

<sup>2</sup> Jaeger, Kyle, "U.S. Attorney General Says He Prefers Marijuana Reform Bill To Current Federal Law," <https://www.marijuanamoment.net/u-s-attorney-general-says-he-prefers-marijuana-reform-bill-to-current-federal-law/>, *Marijuana Moment*, April 10, 2019.

<sup>3</sup> Bachhuber, Marcus A., et al. "Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in the United States, 1999-2010." *JAMA Internal Medicine*, vol. 174, no. 10, 1 Aug. 2014, p. 1668., doi:10.1001/jamainternmed.2014.4005.



**Table 1: Economic Benefit for States with Marijuana Taxation and Regulation**

| STATE  | CANNABIS TAXATION SUMMARY   | TOTAL TAX COLLECTIONS (2018)   |
|--|---|--|
|  ALASKA <sup>4</sup>        | \$50 per ounce excise tax on bud and flower and \$15 per ounce on other aspects of the plant (changes Jan. 1 2019)  | \$15,687,594   |
|  COLORADO <sup>5</sup>      | 15% state retail cannabis sales tax (exempt from general sales tax), and 15% state retail cannabis excise tax   | \$254,295,129  |
|  CALIFORNIA                 | A 15% excise tax is imposed upon retail purchasers of cannabis and cannabis products calculated based on the average market price of the retail sale.<br>A cultivation tax on all harvested cannabis that enters the commercial market is imposed on cultivators at a rate of:<br>\$9.25 per dry-weight ounce of cannabis flowers, \$2.75 per dry-weight ounce of cannabis leaves, and \$1.29 per ounce of fresh cannabis plant.*<br>*To qualify for the "fresh" plant category, the unprocessed cannabis must be weighed within two hours of harvesting.<br>Then normal sales taxes <sup>6</sup> | \$345,200,000  |
|  MASSACHUSETTS              | Adult use marijuana is subject to:<br>a state sales tax - 6.25%<br>a state excise tax - 10.75%<br>a local option for cities or towns - up to 3% <sup>7</sup>  | \$678,134 (sales began in November so this figure is for December 2018) <sup>8</sup> |
|  NEVADA                   | Wholesale excise tax (15% FMV), retail excise tax (10%), and general state sales tax (6.85%) <sup>9</sup>   | \$86,901,085   |
|  OREGON <sup>10</sup>     | 17% state sales tax (does not include the up to 3% local cannabis tax)  | \$94,226,985   |
|  WASHINGTON <sup>11</sup> | Excise tax (37%) and general sales tax (6.5%)   | \$376,102,886  |
| <b>TOTAL OF 7 STATES<sup>12</sup></b>  |   | <b>\$1,173,091,812</b>   |

Of course, states have experienced some bumps in the road following legalization, but they have been able to address these in a practical way. For instance, short-term problems with customer

age-compliance checks in Washington State and Oregon were quickly addressed and now regularly exceed compliance rates for liquor stores. These states have shown that regulation

<sup>4</sup> Alaska Department of Taxation, Revenue Division. "Marijuana Tax Reports." <http://tax.alaska.gov/programs/programs/reports/index.aspx?60000>.

<sup>5</sup> Colorado Department of Revenue, Office of Research and Analysis. "Marijuana Taxes, License, and Fee Revenue February 2014 to Date." <https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data>.

<sup>6</sup> California Department of Tax and Fee Administration. "Tax Guide for Cannabis Businesses." <http://www.cdtfa.ca.gov/industry/cannabis.htm#Started>.

<sup>7</sup> Massachusetts Department of Revenue. "Learn about Massachusetts Tax Rates." <https://www.mass.gov/service-details/learn-about-massachusetts-tax-rates>.

<sup>8</sup> Massachusetts Department of Revenue. "Monthly Report of Collections and Refunds: December 2018." <https://www.mass.gov/files/documents/2019/01/11/dor-bluebook-fy19-dec-2018.pdf>.

<sup>9</sup> State of Nevada. "Marijuana in Nevada - For Businesses - Taxes." <http://marijuana.nv.gov/Businesses/Taxes/>.

<sup>10</sup> Oregon Department of Revenue, "Oregon marijuana tax statistic." <http://www.oregon.gov/DOR/programs/gov-research/Pages/research-marijuana.aspx>.

<sup>11</sup> Washington State Liquor and Cannabis Board. "Monthly Sales." <https://data.lcb.wa.gov/Sales/Monthly-Sales/g9m3-ebn8>.

<sup>12</sup> State tax data research and calculation provided by Andrew Livingston, Director of Economics & Research, Vicente Sederberg LLC.

and targeted enforcement against violators at the local level can responsibly regulate the industry and that federal enforcement would be a costly and unnecessary burden on limited federal prosecutorial resources.

Legalization at the federal level would ease the burden on state regulators by facilitating better control over the commercial cannabis market. Under current federal law, marijuana businesses are often denied access to banking services. This means they must operate in a cash-only environment, which is significantly more difficult to regulate than if the cannabis industry was treated like any other legal business, and often forces state tax and licensing authorities to accept large payments in cash. As of May 2019, a measure to provide safe harbor for financial institutions that want to work with state-legal cannabis businesses and their employees, known as the SAFE Banking Act, has been introduced in both chambers of Congress and most recently was approved by the House Financial Services Committee while garnering more than 170 representatives as cosponsors.

In addition to opening access to banking services, federal marijuana reform would bring about tax equity for legal cannabis businesses. Under Internal Revenue Code section 280E, cannabis businesses are unable to take ordinary business deductions, typically imposing an effective tax burden of 60% to 90%.<sup>13</sup>

Not only is federal marijuana reform good policy, it is also good politics. The vast majority of the American public supports some form of legalization of cannabis. Support for legalizing marijuana possession and use for adults now regularly polls consistently above 60% nationally, including majorities among conservatives, liberals, and independents alike. Support for medical cannabis has achieved near-unanimous backing, with national polls regularly showing support

above 90%, including supermajorities across age ranges and the political spectrum.

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**“The end of federal prohibition would streamline business and save us money in a myriad of ways. Instead of having to recreate our production facilities in each state we operate, we could build economies of scale at one or two locations and ship products across state lines. Centralized cultivation would make wholesale prices cheaper for us to buy in our stores. All of this would allow us to hire more people and expand our footprint faster. And access to institutional capital would mean my partners and I would not have to take dilution every time we are awarded a license and need to spend resources building out.”**

**—Kris Krane, President, 4Front Ventures**

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At a time when nearly two-thirds of Americans live in a state with some form of comprehensive legal cannabis access, it now falls on Congress to determine when and how the federal government will end its conflict with these state programs. As more and more congressional leaders begin to engage on issues related to marijuana reform, it has become clear that members of Congress are impressed by pioneering states like Colorado and Washington, and appear ready to end federal prohibition. Congress should do what it can to allow states to create legal cannabis markets, enable access to banking services, bring about tax equity to businesses that abide by these laws, and allow their constituents to realize the full potential economic and societal benefits of legalized marijuana.

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<sup>13</sup> 26 U.S. Code § 280E.



# ECONOMIC BENEFIT: JOBS AND TAX REVENUE

**“You know what the fastest-growing job category in the United States is? Marijuana.”**

—ZipRecruiter.com Co-founder & CEO Ian Siegel<sup>14</sup>

The legalization of cannabis sales has been an economic boon for states, resulting in billions of dollars in tax revenue and creating tens of thousands of jobs. The seven states that had taxed and regulated adult-use sales in 2018 (Alaska, California, Colorado, Massachusetts, Nevada, Oregon, and Washington) collected more than \$1.1 billion in state tax revenue that year. That does not include millions more in licensing fees and municipal taxes collected during that period.

Colorado alone generated \$266,529,637 in legal marijuana taxes, licenses, and fees at the state level in 2018. That's just one year in one relatively small state.<sup>15</sup> California, the most populous state and the nation's largest cannabis market, collected roughly \$345,200,000 in taxes in its first year of adult-use sales. In Nevada, retail marijuana sales exceeded an average of \$1 million per day through the first six months of operations.<sup>16</sup> In April, it was reported that the state had collected \$41.88 million in total tax revenue, which meant it was 83% of the way to meeting its tax revenue goal despite the program being in

effect for only eight months.<sup>17</sup>

The windfall of state tax revenue from cannabis has only just begun. The first cannabis retail stores opened in Massachusetts in November 2018 and the Commonwealth anticipates tens of millions of dollars in annual tax revenue.<sup>18</sup>

According to job placement firm ZipRecruiter, the number of marijuana industry job postings increased by 445% in 2017, compared to an increase of just 18% the year before. "Year over year growth of job posts in the cannabis industry is outpacing both tech (254% growth) and healthcare (70% growth)," the company reported.<sup>19</sup>

**“As a start up in 2015, we have created over 50 jobs. We have created opportunities to partner on research with our local University Colorado State adding to innovation in our community, we have attracted top talent to move to our community and under federal reform we would see an expanded positive impact in our community.”**

—Gregg Steinberg, CEO, Growcentia

<sup>14</sup> Angell, Tom. "Marijuana Is The Fastest-Growing Job Category, Top Recruiting CEO Says." *Forbes*. April 9, 2018, <https://www.forbes.com/sites/tomangell/2018/04/09/marijuana-is-the-fastest-growing-job-category-top-recruiting-ceo-says/#3dd72c756687>.

<sup>15</sup> Colorado Department of Revenue, Office of Research and Analysis. "Marijuana Taxes, License, and Fee Revenue February 2014 to Date." [https://www.colorado.gov/pacific/sites/default/files/0319\\_MJTaxCalendarReport\\_PUBLISH.pdf](https://www.colorado.gov/pacific/sites/default/files/0319_MJTaxCalendarReport_PUBLISH.pdf).

<sup>16</sup> Thomas, Lucas. "Nevada Marijuana Sales Surpass \$1M Per Day In First Six Months." *Patch*. Feb. 23, 2019, <https://patch.com/nevada/lasvegas/nevada-marijuana-sales-surpass-1m-day-first-six-months>.

<sup>17</sup> Nevada Department of Taxation, Marijuana Revenue Statistics News Release, "Eight Months into the Fiscal Year, Nevada Has Already Brought in 83 Percent of the Year's Projected Marijuana Tax Revenue." April 23, 2018, <https://tax.nv.gov/uploadedFiles/taxnv.gov/Content/TaxLibrary/News-Release-February-Marijuana.pdf>.

<sup>18</sup> McGreevy, Patrick. "California could see a \$643-million marijuana tax haul in first full year of legalization, Gov. Jerry Brown says." *Los Angeles Times*. Jan. 10, 2018, <http://www.latimes.com/style/la-marijuana-updates-20170822-california-could-see-a-643-million-1515615929-htmllstory.html>.

<sup>19</sup> Barrera, Cathy. "Will Cannabis Job Growth Continue to Outpace Tech Job Growth?" *ZipRecruiter*. January 31, 2018, <https://www.ziprecruiter.com/blog/cannabis-job-growth-tech-job-growth/>.

Colorado doesn't keep an official count of people working at marijuana businesses, but the state reports that as of March 2018, more than 38,000 individuals were licensed to work in the cannabis industry, including 1,637 business owners.<sup>20</sup> These figures are only for cannabis industry jobs that require state occupational licenses and do not include the tens of thousands of other jobs created in adjacent or ancillary sectors benefiting from legalization.

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**“We operate dispensaries around the country. In every one of them, we always hire local and in most cases have local ownership partners. We’ve been able to empower locals in places that are in need of good paying jobs, hiring staff and managers and recruiting partners in places like Worcester, MA, Baltimore, MD, Allentown, PA, and the South Side of Chicago, IL. Ending prohibition would allow us to put more resources into local recruitment, retention, and promotion.”**

**—Kris Krane, President, 4Front Ventures**

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An analysis from New Frontier Data estimates that the cannabis industry could generate \$131.8 billion in federal tax revenue and add 1.1 million jobs by 2025 if it is legalized for adult use in all 50 states.<sup>21</sup> That same analysis found that if the U.S. were to legalize cannabis federally today, it would add 782,000 jobs to the economy.

Other indicators show that marijuana legalization has additional economic benefits. In 2018, for example, U.S. News & World Report ranked Colorado as the number one state economy in the nation.<sup>22</sup> Home prices are rising in the state<sup>23</sup> and its population is up 1.4% from 2016.<sup>24</sup>



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<sup>20</sup>U.S. Federal Reserve Bank of Kansas City, Main Street Views, “The Economic Effects of the Marijuana Industry in Colorado,” by Alison Felix, April 16, 2018, <https://www.kansascityfed.org/publications/research/rme/articles/2018/rme-1q-2018>.

<sup>21</sup>Berke, Jeremy. “Marijuana legalization could inject over \$130 billion into US tax coffers by 2025 — if the Trump administration stays hands-off.” Business Insider. Jan. 13, 2018, <http://www.businessinsider.com/cannabis-to-add-a-million-jobs-132-billion-tax-revenue-to-us-by-2025-2018-1>.

<sup>22</sup>Mulder, Ellie. “Magazine ranks Colorado No. 1 for economy, No. 10 overall.” *The Denver Post*. Feb. 28, 2018, <https://www.denverpost.com/2018/02/28/colorado-ranked-10th-best-state/>.

<sup>23</sup>“Colorado Home Prices Continue to Rise: 2017 a Record-Breaking Year.” *Colorado Association of Realtors*. Jan. 11, 2018, <http://www.coloradorealtors.com/2018/01/11/colorado-home-prices-continue-to-rise-2017-a-record-breaking-year/>.

<sup>24</sup>Hamm, Kevin. “Colorado’s population tops 5.6 million, according to Census figures.” *The Denver Post*. March 22, 2018, <https://www.denverpost.com/2018/03/22/colorado-population-2017-census/>.





**Table 2:**  
**Estimated Total Legal Market Value, by States with Legal Medical or All-Adult Use Markets (in millions of dollars)**

Source: Estimates prepared by J. Xanthopoulos, PhD for the National Cannabis Industry Association. These fully-developed estimates rely on Colorado parameters for per capita use among the adult population. Each state’s propensity to purchase cannabis reflects the current patterns of cannabis consumption based on data from SAMHSA<sup>2</sup>. These estimates rely on current consumption behavior prior to legalization in these states, as well as Colorado’s experience since legalization.<sup>3</sup>

| State                         | Market | 2016              | 2020              | 2025              | 2030              |
|-------------------------------|--------|-------------------|-------------------|-------------------|-------------------|
| Alaska                        | ADULT  | 228.7             | 321.7             | 320.6             | 320.3             |
| Arizona                       | MED    | 169.4             | 258.3             | 277.3             | 296.1             |
| Arkansas                      | MED    | 53.8              | 75.0              | 73.3              | 71.0              |
| California                    | ADULT  | 9,158.2           | 12,969.6          | 12,937.9          | 12,923.2          |
| Colorado                      | ADULT  | 1,337.7           | 1,881.0           | 1,862.2           | 1,843.6           |
| Connecticut                   | MED    | 99.5              | 135.8             | 128.9             | 121.8             |
| Delaware                      | MED    | 26.1              | 36.7              | 36.0              | 34.9              |
| Wash, DC                      | MED    | 20.7              | 26.0              | 23.3              | 21.1              |
| Florida                       | MED    | 480.5             | 717.1             | 756.2             | 794.1             |
| Georgia                       | MED    | 187.2             | 267.9             | 268.0             | 265.7             |
| Hawaii                        | MED    | 36.2              | 49.6              | 48.5              | 47.2              |
| Illinois                      | MED    | 293.1             | 399.6             | 382.2             | 364.5             |
| Louisiana                     | MED    | 89.6              | 122.6             | 118.2             | 113.0             |
| Maine                         | ADULT  | 347.4             | 477.3             | 456.1             | 432.9             |
| Maryland                      | MED    | 126.0             | 176.9             | 174.0             | 171.0             |
| Massachusetts                 | ADULT  | 1,759.4           | 2,409.8           | 2,307.7           | 2,198.4           |
| Michigan                      | MED    | 293.9             | 401.4             | 381.4             | 361.1             |
| Minnesota                     | MED    | 132.2             | 185.3             | 181.5             | 177.5             |
| Montana                       | MED    | 32.5              | 45.0              | 43.6              | 41.8              |
| Nevada                        | ADULT  | 716.7             | 1,088.8           | 1,150.7           | 1,203.7           |
| New Hampshire                 | MED    | 43.0              | 60.6              | 59.7              | 58.6              |
| New Jersey                    | MED    | 189.9             | 262.5             | 253.9             | 244.6             |
| New Mexico                    | MED    | 57.0              | 78.8              | 76.2              | 72.6              |
| New York                      | MED    | 539.0             | 728.0             | 688.4             | 649.3             |
| North Dakota                  | MED    | 12.4              | 16.6              | 15.6              | 14.5              |
| Ohio                          | MED    | 293.9             | 398.0             | 376.7             | 354.9             |
| Oklahoma                      | MED    | 73.8              | 101.6             | 98.6              | 95.3              |
| Oregon                        | ADULT  | 1,191.5           | 1,703.1           | 1,714.0           | 1,726.7           |
| Pennsylvania                  | MED    | 287.1             | 389.3             | 369.1             | 348.6             |
| Rhodelsland                   | MED    | 45.5              | 62.1              | 58.9              | 55.6              |
| Vermont                       | MED    | 27.2              | 37.6              | 36.2              | 34.8              |
| Washington                    | ADULT  | 1,807.3           | 2,602.2           | 2,643.9           | 2,697.9           |
| <b>TOTAL ESTIMATED MARKET</b> |        | <b>\$20,156.4</b> | <b>\$28,485.8</b> | <b>\$28,318.7</b> | <b>\$28,156.3</b> |

# ACCESS TO BANKING SERVICES

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**“In 2016, Travis Mason, a 24-year old security guard and Marine Corps Veteran was tragically shot and killed in an attempted robbery at a dispensary in Aurora, Colo. Excess cash on our streets can also lead to an increase in black market or cartel activity as well as tax evasion and skimming.”<sup>25</sup>**

**—U.S. Reps. Ed Perlmutter (D-CO) and Denny Heck (D-WA)**

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Because of continuing federal prohibition, many banks are reluctant to work with cannabis businesses out of fear of being prosecuted under money laundering laws. As a result, many state-licensed cannabis cultivators, processors, and retailers are forced to operate on a cash-only basis, which makes them targets for robberies. Ancillary businesses serving the industry, such as child-proof packaging manufacturers, compliance consultants, and law firms, are even routinely denied basic financial services.

While Financial Crimes Enforcement Network (FinCEN) data shows that the number of banks willing to work with the cannabis industry has been steadily rising over time, the vast majority of financial institutions are not offering accounts to legal marijuana-related clients.<sup>26</sup>

A lack of access to financial services also means that cannabis businesses must pay their local, state, and federal taxes in cash, creating logistical headaches for regulators and a security risk for employees of state and local tax agencies and cannabis entrepreneurs alike.

Since most small business entrepreneurs, particularly those in low-income and minority

communities, have traditionally had limited access to wealth networks and large investors, access to financial services in the form of bank loans would provide much-needed capital options for smaller operators and those who have been most harmed economically by prohibition.

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**“Not having access to banking puts me and my employees at risk. It means that I have to teach them security protocols and remind them to make sure they aren’t being followed. Storage of cash is another major**



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<sup>25</sup> Perlmutter, Ed, and Denny Heck. “Open the banking system to the marijuana industry.” *The Hill*. Feb. 7, 2018, <http://thehill.com/blogs/congress-blog/politics/372681-open-the-banking-system-to-the-marijuana-industry>

<sup>26</sup> U.S. Dept. of Treasury, FinCEN, “Marijuana Banking Update,” Sept. 30, 2017, [https://www.fincen.gov/sites/default/files/shared/273281%20EA%204th%20Q%20MJ%20Stats\\_Public\\_Web.pdf](https://www.fincen.gov/sites/default/files/shared/273281%20EA%204th%20Q%20MJ%20Stats_Public_Web.pdf).



**problem that puts me at risk, especially with our addresses published for all the world to see by the [Bureau of Cannabis Control] in California.”**

—Margot Wampler, Lifted Logistics

Legislation to allow marijuana businesses to access banks has broad bipartisan support in both chambers, but has been stalled until very recently. In 2014, the House approved an appropriations amendment to allow cannabis banking, but the language wasn't included in the final enacted budget that year. Subsequent attempts to include such a provision in the federal budget have been stymied by congressional leadership.

The Democratic takeover of the House of Representatives in November 2018, combined with the increasing prominence of cannabis issues in the public discourse and the growing number of states that are forced to deal with the problems caused by lack of banking access, created a more receptive environment for this legislation. After an initial subcommittee hearing in February 2019, the House Financial Services Committee approved the SAFE Banking Act with bipartisan support.



Location: Om of Medicine, Michigan; photo credit: Michael Wilcox

Sponsors and advocates are pushing for a vote in the House during the 2019 congressional session.

**“I’ve been kicked out of 37 banks so far... try paying over 85 employees and doing regular business without bank access, it is a constant challenge to just make payroll every two weeks. I can use the manpower and labor focused on my business and not just on paying my employees.”**

—Etienne Fontan, Vice President and Co-owner, Berkeley Patients Group

**“Even as an ancillary [cannabis] business, our banking and ability to take credit cards has been restricted causing us to have to change providers, and limiting access to services we should be entitled to. The States are putting cannabis dollars into the banking system, why should an ancillary business (or any business for that matter) be restricted from doing so.”**

—Jeanine Moss, CEO, ANNABIS LLC

# FAIRNESS IN TAXATION

Section 280E of the Internal Revenue Code prohibits businesses engaged in the “trafficking” of Schedule I or Schedule II controlled substances in contravention of state or federal law from deducting normal business expenses, such as payroll, employee benefits, and rent, from gross income. While 280E was originally intended to penalize criminal kingpins, it now applies to licensed cannabis businesses that operate in

compliance with state laws and regulations. This amounts to a major financial burden for legitimate cannabis producers, processors, and retailers who often pay effective tax rates of 60% or more because of this arcane provision in the federal tax code. And because businesses are not able to make federal tax deductions, they sometimes end up paying higher rates at the state level as well.

**Chart 1:**  
**Illustration of Cannabis vs. Non-Cannabis Business Federal Tax Burden<sup>27</sup>**

|                              | CANNABIS BUSINESSES | NON-CANNABIS BUSINESSES |
|------------------------------|---------------------|-------------------------|
| GROSS REVENUE                | \$1,000,000         | \$1,000,000             |
| COST OF GOOD SOLD            | \$650,000           | \$650,000               |
| GROSS INCOME                 | \$350,000           | \$350,000               |
| DEDUCTIBLE BUSINESS EXPENSES | \$0                 | \$200,000               |
| TAXABLE INCOME               | \$350,000           | \$150,000               |
| TAX DUE (21%)                | \$73,500            | \$31,500                |

**EFFECTIVE RATE**



**49%**  
 CANNABIS  
 BUSINESSES



**21%**  
 NON-CANNABIS  
 BUSINESSES

<sup>27</sup> "IRC Section 280E: An Unjust Burden on State-Legal Cannabis Businesses." *National Cannabis Business Association*, (calculation updated for 2018 tax rates), [http://thecannabis-industry.org/wp-content/uploads/2017/10/NCIA-IRC-Section-280E-white-paper\\_web.pdf](http://thecannabis-industry.org/wp-content/uploads/2017/10/NCIA-IRC-Section-280E-white-paper_web.pdf).



Additionally, the increased tax burden forced upon state-licensed cannabis businesses means that states are not able to fully reap the benefits of a legalized cannabis market. Reforming 280E for businesses engaged in state-legal cannabis activities would generate revenue through expanded operations by enabling them to hire more employees and make capital improvements to their businesses, which reinvests money back into the local economy.

States are further harmed by 280E because it provides incentive to those seeking to sell cannabis for profit to do so outside of the regulated system. Entities that complete the arduous state licensing process, comply with stringent state regulations, and pay a variety of taxes imposed at each level of government are at an economic disadvantage

relative to the criminal market operators for whom 280E was truly intended. Of course fundamental fairness dictates that businesses that play by the rules should not be subject to excessive financial burdens that are not faced by untaxed illicit operations that do not adhere to the requirements of licensing and regulation.

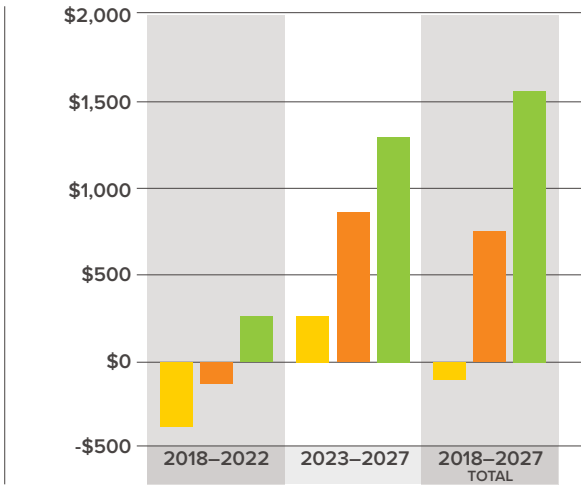
It is possible that 280E reform could lead to some short-term losses in federal tax revenue from state-licensed cannabis businesses because of newly allowed deductions; however, these losses would likely only last for a handful of years. Within five years of reforming 280E, the federal government could potentially see increased tax revenues under cautious low-growth assumptions for the industry.

**“If our business was not subject to 280E we could use those extra funds to hire additional staff and instrumentation to launch medical cannabis research projects to investigate the medicinal benefits of Cannabis, disseminate scientific educational materials to our local community, give raises to our deserving scientists and administrative teams, and offer better health care options to our employees.”**

—Alena Rodriguez, Director of Quality Management, RM3 Labs

**Chart 2:**  
**Estimated Revenue Based on Modifying Section 280E to Exempt State-Legal Cannabis Businesses, Under Various Assumptions of Growth in the Legal State Markets for Adult-Use Marijuana (in millions of dollars)<sup>28</sup>**

- LEGEND
- Low Growth Assumptions
  - Moderate Growth Assumptions
  - Robust Growth Assumptions



<sup>28</sup> “IRC Section 280E: An Unjust Burden on State-Legal Cannabis Businesses.” *National Cannabis Business Association*, [http://thecannabisindustry.org/wp-content/uploads/2017/10/NCIA-IRC-Section-280E-white-paper\\_web.pdf](http://thecannabisindustry.org/wp-content/uploads/2017/10/NCIA-IRC-Section-280E-white-paper_web.pdf).

# IMPACT ON CRIME

A common concern that lawmakers have expressed when considering marijuana reform proposals is what impact legalization would have on crime. While those concerns appear to be justified on their face, available data shows that legal marijuana businesses do not present a threat to public safety and that they may even have a dampening effect on crime.

A 2017 study in *Preventative Medicine* concluded that medical marijuana dispensaries help suppress violent crime due to increased foot traffic in the community and the presence of property safeguards such as security cameras, which are universally required by state regulations governing retail cannabis facilities.<sup>29</sup>

A 2017 paper in the *Journal of Urban Economics* found that closing down dispensaries does not increase public safety, does not lead to an increase in property crimes, and that dispensaries actually help to prevent larcenies.<sup>30</sup>

A 2014 peer-reviewed article found that medical marijuana laws do not cause an increase in violent crime and are actually associated with reductions in homicide and assault.<sup>31</sup>

These studies are reinforced by statewide data from Colorado, Washington, and Oregon following legalization. The property crime rate in Colorado dropped 3% from 2009 to 2014,<sup>32</sup> while the violent crime rate fell 6% during the same period. Washington State enjoyed an even greater drop in crime, with a 10% violent crime reduction and 6% fewer burglaries from 2010 to 2014.<sup>33,34</sup> While Oregon has not yet seen a precipitous reduction in crime, there has been no increase since legalization.<sup>35</sup> These state examples show that while marijuana legalization does not necessarily lead to less crime, it certainly does not increase it as opponents have long argued.

When considering the impact cannabis businesses may have on surrounding communities, it is important to keep in mind that big-box stores,<sup>36</sup> fast-food restaurants,<sup>37</sup> and payday lenders<sup>38</sup> have been associated with elevated rates of burglary and assault.<sup>39</sup> Given the available data that shows dispensaries do not increase crime, but do generate much-needed tax revenues, more and more municipalities across the country are welcoming cannabis businesses in commercial and industrial-zoned areas.

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<sup>29</sup> Subica, Andrew M., et al. "The Geography of Crime and Violence Surrounding Tobacco Shops, Medical Marijuana Dispensaries, and off-Sale Alcohol Outlets in a Large, Urban Low-Income Community of Color." *Preventive Medicine*, vol. 108, 24 Dec. 2017, pp. 8–16., doi:10.1016/j.ypmed.2017.12.020.

<sup>30</sup> Chang, TY, & Jacobson, M. (2017). Going to pot? The impact of dispensary closures on crime. *Journal of Urban Economics*, 100, 120-136. <http://dx.doi.org/10.1016/j.jue.2017.04.001>.

<sup>31</sup> Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014) The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. *PLoS ONE* 9(3): e92816. <http://sci-hub.hk/https://doi.org/10.1371/journal.pone.0092816>.

<sup>32</sup> Colorado Department of Public Safety Division of Criminal Justice, Office of Research and Statistics, "Marijuana Legalization in Colorado: Early Findings," March 2016, <http://cdps-docs.state.co.us/ors/docs/reports/2016-SB13-283-Rpt.pdf>.

<sup>33</sup> Washington [State] Association of Sheriffs & Police Chiefs, Criminal Justice Information, "Crime in Washington 2011 Annual Report," [http://www.waspc.org/assets/CJIS/2011\\_ciw.pdf](http://www.waspc.org/assets/CJIS/2011_ciw.pdf), accessed May 7, 2018.

<sup>34</sup> Washington [State] Association of Sheriffs & Police Chiefs, Criminal Justice Information, "Crime in Washington 2014 Annual Report," <http://www.waspc.org/assets/CJIS/ciw%202014%20small.pdf>, accessed May 7, 2018.

<sup>35</sup> Dills, Angela, Sietse Goffard, and Jeffrey Miron. "Dose of Reality, The Effect of State Marijuana Legalizations." *Cato Institute*. Sept 16, 2016, <https://object.cato.org/sites/cato.org/files/pubs/pdf/pa799.pdf>.

<sup>36</sup> Scott E. Wolfe, David C. Pyrooz; Rolling Back Prices and Raising Crime Rates? The Walmart Effect on Crime in the United States, *The British Journal of Criminology*, Volume 54, Issue 2, 1 March 2014, Pages 199–221, <https://doi.org/10.1093/bjc/azt071>.

<sup>37</sup> Beam, Christopher, "McRage, Why is there so much violent crime at fast-food restaurants?" *Salon*. April 27, 2011, [http://www.slate.com/articles/news\\_and\\_politics/crime/2011/04/mcraige.html](http://www.slate.com/articles/news_and_politics/crime/2011/04/mcraige.html).

<sup>38</sup> Kubrin, Charis & Squires, Gregory & M. Graves, Steven & Ousey, Graham. (2011). Does Fringe Banking Exacerbate Neighborhood Crime Rates? Investigating the Social Ecology of Payday Lending. *Criminology & Public Policy*. 10. 437-466. 10.1111/j.1745-9133.2011.00719.x.

<sup>39</sup> Passy, Jacob. "Why you may not need to worry about the new marijuana dispensary next door." *MarketWatch*. Jan. 9, 2018, <https://www.marketwatch.com/story/why-you-dont-need-to-worry-about-the-new-marijuana-dispensary-next-door-2018-01-09>.



## REDUCTION IN ARRESTS BUT DISPARITIES REMAIN

One of the societal benefits of marijuana legalization is a reduction in arrests and law enforcement costs. Fewer arrests for marijuana offenses means that limited law enforcement resources can be re-directed toward preventing violent and property crimes. However, the reduction in marijuana arrests has not eliminated racial disparities in marijuana enforcement. In Colorado, marijuana arrests have dropped 51% for whites but only 33% for Latinos and 25% for Black persons.<sup>40</sup> This is more troubling when one considers that arrest rates for non-whites prior to legalization were proportionately greater than the arrest rates for whites at that time.

While marijuana arrests fell by similar rates for whites and blacks in Alaska following legalization (95% vs. 92%), the sharp racial disparity that existed prior to legalization remains today.<sup>41</sup> Additionally, youth arrest rates have not dropped in proportion to the number of adult arrests despite teen use remaining stable or falling in states that have legalized cannabis. Arrest rates for youth in Oregon have fallen in total number, but teens are now proportionately arrested at nearly seven times the adult marijuana arrest rate, while Colorado has seen youth arrests increase by 5%.<sup>42</sup> As the racial disparity numbers show, Latino and Black youths are disproportionately the target of these arrests. These examples show that public officials should examine ways to ensure that the benefits of legalization reach all Americans.

Thankfully, a number of states and jurisdictions are taking steps to ensure equitable participation in the newly legal cannabis industry by those communities that have been historically most harmed by prohibition enforcement. For example, Massachusetts is giving priority business licensing certification to applicants from areas with "historically high rates of arrest, conviction, and incarceration related to marijuana crimes."<sup>43</sup> Similarly, the City of Oakland, California is setting aside a minimum of half of all initial cannabis business permits to applicants from "police beats with disproportionately higher number of cannabis-related arrests."<sup>44</sup>

And some members of Congress are pushing to right the wrongs of racially disparate enforcement. For example, the Marijuana Justice Act, which is pending before the House and Senate, would withhold some federal funding from states with disproportionate cannabis arrest and incarceration rates and use the savings to "reinvest in communities most affected by the war on drugs" by establishing a grant program to fund job training, libraries, community centers and health education programs.<sup>45</sup> NCIA is fully committed to righting these wrongs and will work with the Minority Cannabis Business Association, Congressional Black Caucus, and the Congressional Hispanic Caucus, and other like-minded organizations to reverse these unacceptable trends.

<sup>40</sup> Subica, "From Prohibition to Progress: A Status Report on Marijuana Legalization," *Drug Policy Alliance*, Jan. 2018, [http://www.drugpolicy.org/sites/default/files/dpa\\_marijuana\\_legalization\\_report\\_feb14\\_2018\\_0.pdf](http://www.drugpolicy.org/sites/default/files/dpa_marijuana_legalization_report_feb14_2018_0.pdf).

<sup>41</sup> Id.

<sup>42</sup> Id.

<sup>43</sup> Massachusetts Cannabis Control Commission. "Licensure of a Marijuana Establishment." <https://mass-cannabis-control.com/wp-content/uploads/2018/04/Guidance-for-Marijuana-Establishment-Licensure-Applicants.pdf>.

<sup>44</sup> City of Oakland (California), City Administration, Cannabis Permits. "Become an Equity Applicant or Incubator." <http://www2.oaklandnet.com/government/o/CityAdministration/cannabis-permits/OAK068455>, accessed May 12, 2018.

<sup>45</sup> H.R. 4815/S. 1689, 115th Cong. (2017).

# REDUCING ACCESS TO MINORS

Opponents of marijuana reform often make the argument that legalization would lead to increased teen consumption; however, the data shows that youth use generally has not increased following the enactment of state laws legalizing and regulating cannabis. The reality is that teen use tends to either hold steady or drop somewhat after a state ends marijuana prohibition for adults.

**Table 3:**

**Percentage Of 12-17 Year-Olds Who Used Marijuana In The Past Month**

| State         | LEGALIZATION | 2014-2015 | 2015-2016 <sup>46</sup> | 2016-2017 <sup>47</sup> |
|---------------|--------------|-----------|-------------------------|-------------------------|
| Alaska        | 2014         | 10.64     | 10.43                   | 8.84                    |
| California    | 2016         | 8.32      | 7.33                    | 6.93                    |
| Colorado      | 2012         | 11.13     | 9.08                    | 9.02                    |
| D.C.          | 2014         | 8.85      | 8.07                    | 8.26                    |
| Massachusetts | 2016         | 9.22      | 8.68                    | 8.91                    |
| Michigan      | 2018         | 8.06      | 7.98                    | 7.73                    |
| Nevada        | 2016         | 7.39      | 8.65                    | 8.82                    |
| Oregon        | 2014         | 9.42      | 9.77                    | 10.35                   |
| Washington    | 2012         | 9.17      | 7.93                    | 6.46                    |
|               |              | 7.2       | 6.75                    | 6.46                    |

<sup>46</sup> U.S. Substance Abuse and Mental Health Services Administration Center for Behavioral Health Statistics and Quality, "Results From The 2016 National Survey On Drug Use And Health: Comparison of 2014-2015 and 2015-2016 Population Percentages (50 States and the District of Columbia)." Nov. 28, 2018, <https://www.samhsa.gov/data/report/comparison-2014-2015-and-2015-2016-nsduh-population-percentages-50-states-and-district>.

<sup>47</sup> U.S. Substance Abuse and Mental Health Services Administration Center for Behavioral Health Statistics and Quality, "Results From The 2017 National Survey On Drug Use And Health: Comparison of 2015-2016 and 2016-2017 Population Percentages (50 States and the District of Columbia)." Feb. 5, 2019.





**“Daily, past-month, past-year, and lifetime marijuana use declined among 8th graders and remains unchanged among 10th and 12th graders compared to five years ago, despite the changing state marijuana laws during this time period.”**

**—2018 Monitoring the Future Survey: High School and Youth Trends<sup>48</sup>**

Prohibitionists point out that teen use is sometimes greater in legalization states than in states that continue to criminalize marijuana. However, as a 2017 article in the *Journal of American Nursing* observed, “these differences existed before the passage of medical marijuana laws” (emphasis added).<sup>49</sup>

The National Survey on Drug Use and Health (NSDUH) provides data on use among youths aged 12-17. That study found a decrease in use among youth in all legalization states, with Nevada and Oregon being the exceptions. Although these two states saw an increase, it was not necessarily tied to legalization considering states such as Alabama and Nebraska, which do not have legal cannabis nor any medical marijuana programs, also saw an increase.<sup>50</sup>

A 2017 paper published by Prevention Science concluded that while marijuana use among adults aged 26 and older increases following the adoption of a medical marijuana law, use among people aged 12-25 does not.<sup>51</sup>

Similarly, a 2018 article published by the *Society for Study of Addiction* examining medical marijuana laws through 2014 found no increase in adolescent use.<sup>52</sup>

Youth prevention programs around marijuana use could be a factor. Another paper published by Prevention Science in 2019 urged more prevention science research to assist the public health sector with implementation of programs and policies meant to mitigate adverse consequences of marijuana use.

<sup>53</sup> The cannabis industry is doing its part to prevent teen use by rigorously adhering to age identification laws and regulations. Unlike liquor stores, adult-use marijuana stores are required to deny even mere entry to premises for underaged persons. In fact, age check compliance rates for adult-use marijuana stores are comparable and often exceed those of liquor stores.

A 2016 article in the *Journal of Studies on Alcohol and Drugs* examining identification checks in Colorado adult-use stores found that compliance was extremely high and possibly higher than compliance with restrictions on alcohol sales.<sup>54</sup>

<sup>48</sup> National Institute on Drug Abuse. “Monitoring the Future Survey: High School and Youth Trends.” Revised Dec. 2018. <https://www.drugabuse.gov/publications/drugfacts/monitoring-future-survey-high-school-youth-trends>

<sup>49</sup> Nelson, Roxanne. “Does Legalizing Marijuana Increase Teen Use?” *American Journal of Nursing*. Oct. 2017, pp. 18-19.

<sup>50</sup> U.S. Substance Abuse and Mental Health Services Administration Center for Behavioral Health Statistics and Quality, “Results From The 2017 National Survey On Drug Use And Health: Comparison of 2015-2016 and 2016-2017 Population Percentages (50 States and the District of Columbia). Feb. 5, 2019 <https://www.samhsa.gov/data/report/comparison-2015-2016-and-2016-2017-nsduh-population-percentages-50-states-and-district>.

<sup>51</sup> Mauro, Christine M., et al. “Impact of Medical Marijuana Laws on State-Level Marijuana Use by Age and Gender, 2004–2013.” *SpringerLink*, Springer US, 4 Nov. 2017, [rd.springer.com/article/10.1007/s11121-017-0848-3](https://rd.springer.com/article/10.1007/s11121-017-0848-3).

<sup>52</sup> Sarvet, Aaron L., et al. “Medical Marijuana Laws and Adolescent Marijuana Use in the United States: a Systematic Review and Meta-Analysis.” *Addiction*, vol. 113, no. 6, 22 Feb. 2018, pp. 1003–1016., doi:10.1111/add.14136.

<sup>53</sup> Johnson, Renee M., et al. “Marijuana Use among Adolescents and Emerging Adults in the Midst of Policy Change: Introduction to the Special Issue.” *SpringerLink*, Spring US, 30 January 2019, <https://link.springer.com/article/10.1007/s11121-019-0989-7>

<sup>54</sup> Buller, David B, et al. “Pseudo-Underage Assessment of Compliance With Identification Regulations at Retail Marijuana Outlets in Colorado.” *Journal of Studies on Alcohol, Supplement*, 30 Oct. 2016, [www.jsad.com/doi/10.15288/jsad.2016.77.868](http://www.jsad.com/doi/10.15288/jsad.2016.77.868).

<sup>55</sup> Veksler, Marie, “Four Washington Marijuana Dispensaries Fail Age Compliance Checks,” *MassRoots*. May 26, 2015, <https://www.massroots.com/news/four-washington-dispensaries-fail-compliance-checks/>.

The first wave of age check compliance testing for adult-use stores in Washington State found the compliance rate to be 82%, slightly below liquor stores, but with a very small sample size as only a tiny fraction of the state's adult-use stores were open at that stage.<sup>55</sup> A few months later, the rate climbed to 88%, placing it well within the range of liquor store compliance.<sup>56</sup> The state Liquor and Cannabis Board took action by citing the violators and publishing their names on the board's

website.

In Oregon, compliance rates experienced a one-month aberration in which 76% of marijuana businesses passed inspection for checking identification. A month later it had increased to 89%<sup>57</sup> and within two months Oregon cannabis retail stores attained an identification check compliance rate of 100%.<sup>58</sup>

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<sup>56</sup> Washington State Liquor and Cannabis Board, Press Release, Marijuana Compliance Checks: "18 of 157 recreational marijuana stores sell to minors," May 20, 2015, <https://lcb.wa.gov/pressreleases/marijuana-compliance-checks-18-157-recreational-marijuana-stores-sell-minors>.

<sup>57</sup> Bach, Jonathan. "Fewer pot retailers caught selling marijuana to minors in Oregon stings." *Statesman Journal*. Feb. 22, 2018, <https://www.statesmanjournal.com/story/news/2018/02/22/fewer-pot-retailers-caught-selling-marijuana-minors-oregon-stings/365326002/>.

<sup>58</sup> Angell, Tom, "Zero Marijuana Shops Sold To Minors In Oregon Sting Operation." *Marijuana Moment*. March 29, 2018, <https://www.marijuanamoment.net/zero-marijuana-shops-sold-to-minors-in-oregon-sting-operation/>.



# CANNABIS AS PART OF A COMPREHENSIVE RESPONSE TO THE OPIOID CRISIS

The opioid overdose crisis has become one of the most pressing public health challenges facing the country today, with more than 33,000 Americans losing their lives to opioid overdoses in 2015 alone. According to the White House Council of Economic Advisers, the economic cost of the opioid crisis that year was \$504 billion (about 2.8% of GDP).<sup>59</sup> There is mounting evidence, however, that cannabis can help reduce opioid abuse and addiction. This is because it can effectively treat chronic pain and because people who use opioids, both legal and illegal, are increasingly looking to cannabis as a safer alternative.

Cannabis alone will not solve the opioid crisis, but if politicians are serious about addressing the issue, it should serve as part of a comprehensive approach. States like Colorado have experienced a reduction in opioid overdoses in part by providing social services and access to the overdose reversal drug naloxone and maintenance medications such as methadone.<sup>60,61</sup> Perhaps the biggest burden preventing greater access to these services has been financial, yet ending federal marijuana prohibition has the potential to create substantially greater prescription drug savings along with significantly greater tax revenue, particularly in the mid-to-long term.

## Reductions in Opioid Use Due to Access to Cannabis

Perhaps the most striking data comes from a 2014 study of fatal opioid overdoses between 1999 and 2010. That survey found that the 13 states with medical cannabis laws during that period had 24.8% fewer opioid deaths than other states.<sup>62</sup> What's more, the effect of medical cannabis appeared to strengthen over time – overdose death reductions grew from roughly 20% the first year after medical marijuana implementation to nearly 34% five years after implementation.<sup>63</sup>

Similarly, a 2017 study published by the American Journal of Public Health found that the legalization of adult-use marijuana in Colorado was associated with a decline in opioid deaths.<sup>64</sup> While it cannot be concluded that legal access to cannabis is directly responsible for the reduced fatalities, it demonstrates that marijuana does not lead to increased use of opioids in line with opponents' "gateway theory" and may actually be contributing to the decline.

<sup>59</sup> White House Council of Economic Advisors, "The Underestimated Cost of the Opioid Crisis," Nov. 2017, <https://www.whitehouse.gov/sites/whitehouse.gov/files/images/The%20Underestimated%20Cost%20of%20the%20Opioid%20Crisis.pdf>.

<sup>60</sup> Colorado Office of Behavioral Health, Department of Human Services, "Policy Analysis of State Legislation and Response to the Opioid Crisis," Sept. 12, 2017, [https://leg.colorado.gov/sites/.../state\\_policy\\_analysis\\_opioids\\_sept\\_21\\_2017\\_final.pdf](https://leg.colorado.gov/sites/.../state_policy_analysis_opioids_sept_21_2017_final.pdf)

<sup>61</sup> Dukakis, Andrea and Nathaniel Minor, "In The Heart Of Colorado's Opioid Crisis, This Rural Doctor Is An Army Of One," *Colorado Public Radio*, March 31, 2017, <http://www.cpr.org/news/story/in-the-heart-of-colorado-s-opioid-crisis-rural-doctor-is-an-army-of-one>.

<sup>62</sup> Bachhuber, Marcus A., et al. "Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in the United States, 1999-2010." *JAMA Internal Medicine*, vol. 174, no. 10, 1 Aug. 2014, p. 1668., doi:10.1001/jamainternmed.2014.4005.

<sup>63</sup> Id.

<sup>64</sup> Livingston, Melvin D., et al. "Recreational Cannabis Legalization and Opioid-Related Deaths in Colorado, 2000–2015." *American Journal of Public Health*, vol. 107, no. 11, Nov. 2017, pp. 1827–1829., doi:10.2105/ajph.2017.304059.

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**“I am proud to have provided legal medicine to patients who need it for more than 4 years now. What keeps me going are the stories I hear from our patients about how they found relief from seizures, chronic pain, HIV/AIDS-related ailments, PTSD, relief from cancer testaments, and on and on.”**

**—Margot Wampler, Lifted Logistics**

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A 2018 study by RAND Corporation researchers published in the *Journal of Health Economics* found that states with medical cannabis dispensaries reported a 38% reduction in opioid addiction treatment admissions, plus a 21% to 25% reduction in opioid overdose deaths.<sup>65</sup>

A 2016 report from Castlight Health, a San Francisco health care information company, found that in states with medical cannabis laws, only 2.8% of those with an opioid prescription were abusing the substance, compared to 5.4% of people who use opioids in states without medical cannabis laws.<sup>66</sup>

A 2015 study of 653 illicit injection opioid users in Los Angeles and San Francisco found that those who consumed cannabis used significantly fewer opioids in a 30-day period than those who didn't.<sup>67</sup>

## Potential Prescription Drug Cost Savings from Cannabis as an Alternative to Opioids

Recent studies published in the *Journal of the American Medical Association* have shown that legal access to medical cannabis is associated with fewer opioid prescriptions being written along with significant Medicare Part D cost savings.

A May 2018 study found that from 2011 to 2016, “medical marijuana laws and adult-use marijuana laws were associated with lower opioid prescribing rates (5.88% and 6.38% lower, respectively).” The researchers concluded that marijuana reform deserves consideration in policy discussions about addressing the opioid crisis.<sup>68</sup>

A May 2018 JAMA article conducted a longitudinal analysis of Medicare Part D with respect to opioids and marijuana legalization.<sup>69</sup> The analysis found that prescriptions for opioids fell nearly 10% (reduced by 2.11 million daily doses per year) after a state adopted a medical cannabis program.

These studies support the findings of a 2016 study that concluded that state medical cannabis programs were responsible for \$165.2 million in Medicare Part D prescription savings in 2013.<sup>70</sup> This analysis also found that savings could exceed \$1 billion annually if all states were to adopt medical cannabis programs.

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<sup>65</sup> White Powell, David, et al. “Do Medical Marijuana Laws Reduce Addictions and Deaths Related to Pain Killers?” *Journal of Health Economics*. Volume 58, March 2018, pp. 29-42. doi: 10.1016/j.jhealeco.2017.12.007.

<sup>66</sup> Stewart, Catherine. “Prescription Opioid Abuse Rates Drop in Medical Marijuana States.” *CRESCOLabs*. April 28, 2016, <https://www.crescolabs.com/prescription-opioid-abuse-rates-drop-in-medical-marijuana-states/>.

<sup>67</sup> Kral, Alex H., et al. “Is Cannabis Use Associated with Less Opioid Use among People Who Inject Drugs?” *Drug and Alcohol Dependence*, vol. 153, 1 Aug. 2015, pp. 236–241. doi:10.1016/j.drugalcdep.2015.05.014.

<sup>68</sup> Wen, Hefei, and Jason M. Hockenberry. “Association of Medical and Adult-Use Marijuana Laws With Opioid Prescribing for Medicaid Enrollees.” *JAMA Internal Medicine*, vol. 178, no. 5, 1 May 2018, p. 673. doi:10.1001/jamainternmed.2018.1007.

<sup>69</sup> Bradford, Ashley C., et al. “Association Between US State Medical Cannabis Laws and Opioid Prescribing in the Medicare Part D Population.” *JAMA Internal Medicine*, vol. 178, no. 5, 1 May 2018, p. 667. doi:10.1001/jamainternmed.2018.0266.

<sup>70</sup> Ashley C. Bradford and W. David Bradford C. “Medical Marijuana Laws Reduce Prescription Medication Use In Medicare Part D.” *Health Affairs*. vol. 35, no.7, 2016. pp.1230-1236. doi: 10.1377/hlthaff.2015.1661.



## Gateway Theory

Opponents of cannabis legalization often cite the supposed “gateway” theory as a reason to maintain prohibition. However, the theory that cannabis use leads to an increased likelihood of using other controlled substances is not supported by the available science. In fact, even the Drug Enforcement Administration (DEA) has said, “little evidence supports the hypothesis that initiation of marijuana use leads to an abuse disorder with other illicit substances.”<sup>71</sup> Cannabis has long been the most frequently used federally illicit drug, which is why its use commonly occurs before use of other substances, but there is no evidence that cannabis consumption is the reason why people move on to other substance use. Moreover, use of other substances, such as caffeine, nicotine, and alcohol often predate initial use of cannabis.<sup>72</sup>

On the contrary, there is some evidence to support the notion that cannabis has the potential to be an “exit drug” for individuals engaging in abuse of other substances, such as opioids. A 2017 study found that 97% of subjects reported decreasing the amount of opiates they consumed when they also use cannabis. That study also found that 81% of subjects ultimately preferred cannabis by itself rather than using it concurrently with opioids, demonstrating the possible exit effect. Another 2017 study observed a “growing body of research supporting the medical use of cannabis as an adjunct or substitute for opioids,” and urged policymakers to incorporate cannabis in any opioid response strategy.<sup>73</sup> Given the relatively low harm associated with cannabis as compared to alcohol, opioids, and other drugs, even a very small substitution effect could have enormous societal benefits.

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<sup>71</sup> Federal Register, Vol. 81, No. 156, Aug 12, 2016, accessible at: [http://safeaccessnow.org/dea\\_denial](http://safeaccessnow.org/dea_denial).

<sup>72</sup> Reiman, A, et al. “Cannabis as a Substitute for Opioid-Based Pain Medication: Patient Self-Report.” *Cannabis and Cannabinoid Research*, U.S. National Library of Medicine, 1 June 2017, [www.ncbi.nlm.nih.gov/pubmed/28861516](http://www.ncbi.nlm.nih.gov/pubmed/28861516).

<sup>73</sup> Lucas, Philippe. “Rationale for Cannabis-Based Interventions in the Opioid Overdose Crisis.” *Harm Reduction Journal*, vol. 14, no. 1, 18 June 2017, doi:10.1186/s12954-017-0183-9.

# HIGHWAY SAFETY

One thing that reasonable supporters and opponents of marijuana reform agree on is that policies should be adopted to prevent impaired driving and that these policies should be based on science. This is because when impaired driving laws are not rooted in science, innocent people are at risk for arrest and prosecution.

Analysis by the CATO Institute based upon data collected by state government agencies in Colorado,<sup>74</sup> Washington,<sup>75</sup> Oregon,<sup>76</sup> and Alaska<sup>77</sup> shows despite a few aberrations there has been no significant increase in highway fatalities as a result of marijuana legalization.<sup>78</sup> A 2017 article in the *Journal of American Medicine* found post-legalization “crash fatality rates for Washington and Colorado were not statistically different” to those in similar states without legalization.<sup>79</sup> The *Journal of Addiction* released a study in early 2019 that analyzed traffic fatalities in Colorado, Washington, and Oregon, along with their neighboring states that do not have legal cannabis. It found that all of the states, including the neighboring states, had a slight increase of one additional traffic death per million residents, but the increase was temporary and the rates went back to normal after about a year.<sup>80</sup>

A 2015 National Highway Traffic Safety Administration (NHTSA) article found there was no statistically significant crash risk associated with

marijuana use after controlling for age, gender, ethnicity, and the presence of alcohol.<sup>81</sup> The article reported that while raw numbers may make it seem like marijuana use increases crash risks, people who use marijuana simply tend to be from a higher crash-risk group: younger adult males.

A 2009 article in the *American Journal on Addictions* comparing the relative potential for harm between alcohol and cannabis impairment found that “cannabis users tend to compensate effectively for their deficits by driving more carefully.”<sup>82</sup> A 2016 article published by the Society for the Study of Addictions reached a



<sup>74</sup> Colorado Department of Transportation, “Fatal Accident Statistics by City and County,” <https://www.codot.gov/library/traffic/safety-crash-data/fatal-crash-data-city-county/fatal-crashes-by-city-and-county>.

<sup>75</sup> Washington [State] Traffic Safety Commission, “Quarterly Target Zero Data,” <http://wtsc.wa.gov/research-data/quarterly-target-zero-data/>.

<sup>76</sup> Oregon Department of Transportation, “Data and Maps,” <http://www.oregon.gov/odot/data/pages/index.aspx>.

<sup>77</sup> Alaska Department of Transportation & Public Facilities, Alaska Highway Safety Office, “Fatality Analysis Reporting System (FARS),” <http://www.dot.state.ak.us/stwdplng/hwysafety/fars.shtml>.

<sup>78</sup> Dills, Angela, Sietse Goffard, and Jeffrey Miron. “Dose of Reality, The Effect of State Marijuana Legalizations.” *Cato Institute*. Sept 16, 2016, <https://object.cato.org/sites/cato.org/files/pubs/pdf/pa799.pdf>.

<sup>79</sup> Aydelotte, Jayson D., et al. “Crash Fatality Rates After Recreational Marijuana Legalization in Washington and Colorado.” *American Journal of Public Health*, vol. 107, no. 8, 12 July 2017, pp. 1329–1331, doi:10.2105/ajph.2017.303848.

<sup>80</sup> Lane, Tyler J. “Traffic fatalities within US states that have legalized recreational cannabis sales and their neighbours,” *Addiction*, 4 Feb. 2019, <https://doi.org/10.1111/add.14536>

<sup>81</sup> U.S. Department of Transportation, National Highway Traffic Safety Administration, “Drug and Alcohol Crash Risk,” by Richard P. Compton and Amy Berning, Feb. 2015, [https://www.nhtsa.gov/staticfiles/nti/pdf/812117-Drug\\_and\\_Alcohol\\_Crash\\_Risk.pdf](https://www.nhtsa.gov/staticfiles/nti/pdf/812117-Drug_and_Alcohol_Crash_Risk.pdf).

<sup>82</sup> Sewell, R. Andrew, et al. “The Effect of Cannabis Compared with Alcohol on Driving.” *American Journal on Addictions*, vol. 18, no. 3, 2009, pp. 185–193, doi:10.1080/10550490902786934.



similar finding, noting “no comparable increase in the risk of crashes” associated with cannabis use compared to alcohol.”<sup>83</sup>

Several states have adopted per se limits on THC concentration in the blood. While this method is less inaccurate than urinalysis testing for determining relatively recent use, it remains highly unreliable for testing actual impairment. According to the American Automobile Association, there is “no science showing that drivers reliably become impaired at a specific level of marijuana in the

blood.”<sup>84</sup>

In 2017, NHTSA reported on the unreliability of per se THC/blood concentration and concluded that Washington State’s “per se limit appears to have been based on something other than scientific evidence.”<sup>85</sup> Instead, NHTSA recommends expanding training for law enforcement drug recognition experts and improved data collection at the state level to help guide future policies.



<sup>83</sup> Rogeberg, Ole & Rune Elvik. “The effects of cannabis intoxication on motor vehicle collision revisited and revised.” *Addiction*. Apr 25, 2016, doi:10.1111/add.13347.

<sup>84</sup> “Findings from Four AAA Foundation for Traffic Safety” AAA Foundation for Traffic Safety. Available at: <http://publicaffairsresources.aaa.biz/wp-content/uploads/2016/04/Cannabis-Research-Fact-Sheet-FINAL.docx>, accessed May 8, 2018.

<sup>85</sup> U.S. Department of Transportation, National Highway Traffic Safety Administration, “Marijuana-Impaired Driving, A Report to Congress,” July 2017, <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812440-marijuana-impaired-driving-report-to-congress.pdf>.

# PUBLIC OPINION

“Over the last 10 or 15 years, the American people’s attitudes have changed dramatically. I find myself in that same position.”<sup>86</sup>

—Former U.S. House Speaker John Boehner (R-OH)

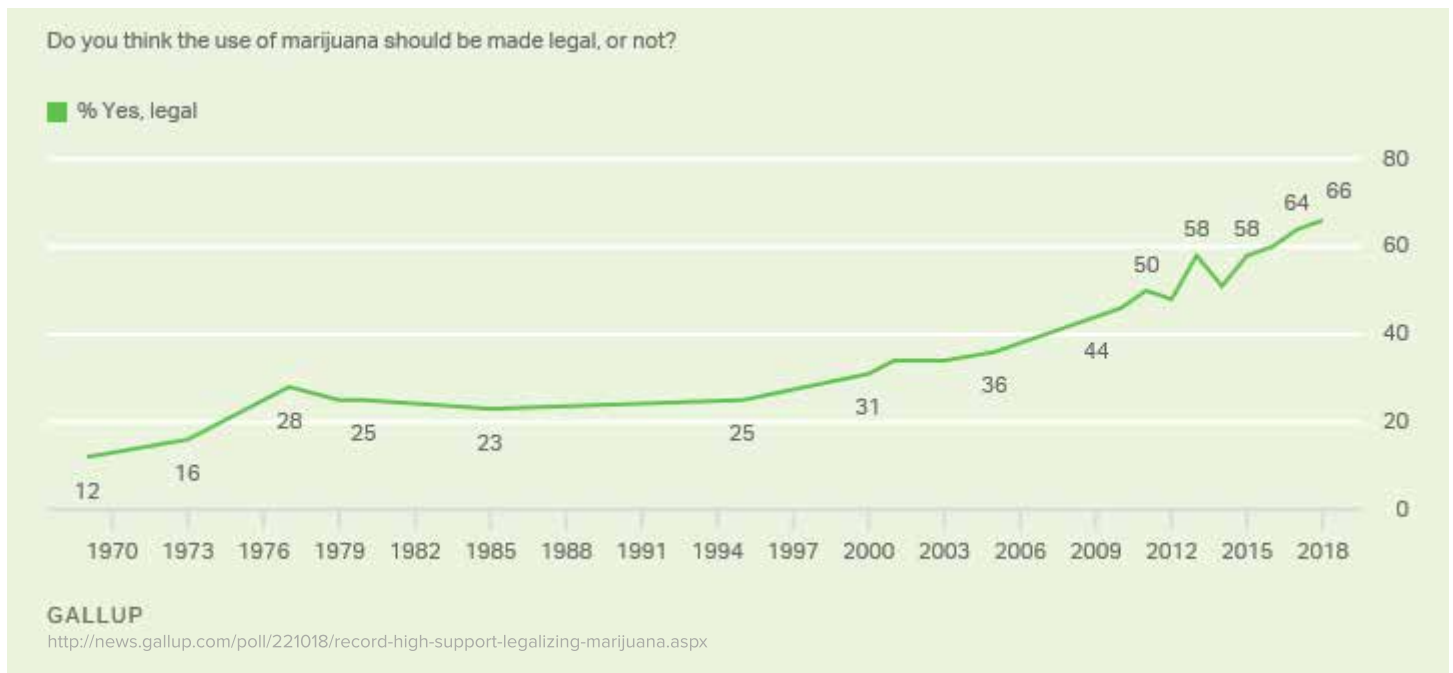
Public support for legalizing cannabis has risen rapidly in recent years, with a clear majority of Americans now saying it is time to end prohibition.

Among all Americans, support for legalization is at 64%, according to Gallup.<sup>87</sup> A majority of Republicans, Democrats, and independents

want to end cannabis prohibition. A Quinnipiac University national poll conducted in April 2018 found that 70% of Americans oppose federal interference with state marijuana laws.<sup>88</sup>

Another national poll shows that 54% of Trump voters believe that marijuana policies should be left to the states’ discretion.<sup>89</sup>

## CHART 3: | Americans' Support for Legalizing Marijuana Continues to Rise



<sup>86</sup> Kaplan, Jennifer. “Ex-Speaker John Boehner Joins Marijuana Firm’s Advisory Board.” *Bloomberg*. April 11, 2018, <https://www.bloomberg.com/news/articles/2018-04-11/ex-speaker-john-boehner-joins-marijuana-firm-s-advisory-board>.

<sup>87</sup> McCarthy, Justin. “Record-High Support for Legalizing Marijuana Use in U.S.” *Gallup*. Oct. 25 2017, <http://news.gallup.com/poll/221018/record-high-support-legalizing-marijuana.aspx>.

<sup>88</sup> “U.S. Voters Believe Comey More Than Trump, Quinnipiac University National Poll Finds; Support For Marijuana Hits New High.” *Quinnipiac University Poll*. April 26, 2018, <https://poll.qu.edu/national/release-detail?ReleaseID=2539>.

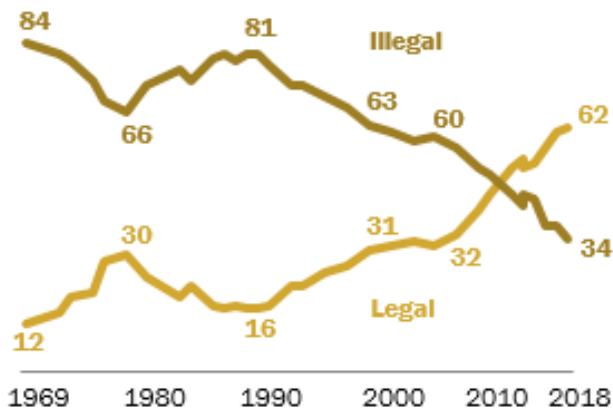
<sup>89</sup> Angell, Tom. “Pro-Trump Group’s Poll Shows Opposition To Trump Marijuana Policies.” *Marijuana Majority*. March 2, 2018, <https://www.marijuanamoment.net/pro-trump-groups-poll-shows-opposition-trump-marijuana-policies/>.



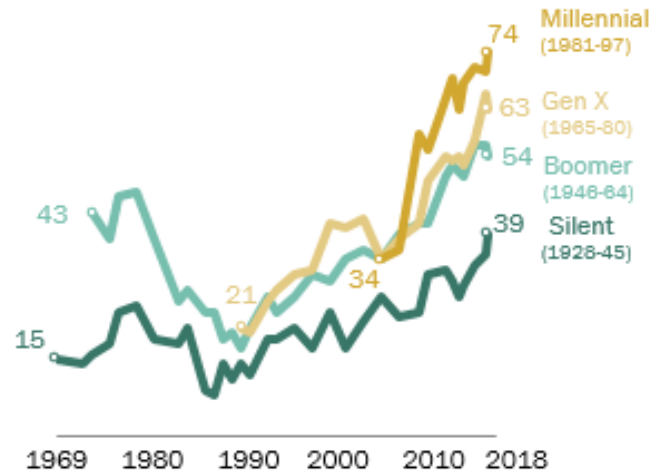
Legal cannabis is clearly the future, given that 70% of Millennial voters and 66% in Generation X are on board, according to the Pew Research Center.<sup>90</sup>

## CHART 4: | U.S. Public Opinion on Legalizing Marijuana, 1969–2018

Do you think the use of marijuana should be made legal, or not? (%)



% who say marijuana should be made legal



Note: Don't know responses not shown.  
Source: Survey of U.S. adults conducted Sept. 18-24, 2018.

PEW RESEARCH CENTER

Support for cannabis legalization has also increased in states that have adopted adult-use laws. An April 2017 study published in *Drug and Alcohol Dependence* found that support in Washington State for its adult-use program rose from 64% in 2012 to 78% in 2016.<sup>91</sup> In Colorado, 61% of the state has seen marijuana legalization as a positive benefit to the economy and overall support for Amendment 64 has held steady since its passage.<sup>92</sup> Voters are clearly satisfied with the effects of regulating the cannabis markets in their states.

When it comes to allowing patients to access medical cannabis, voter support is higher than for virtually any other public policy issue being debated by Congress. Quinnipiac University found, for example, that 94% of Americans—including greater than 90% support in every political, racial, age, and other demographic—back medical marijuana.<sup>93</sup> Support for legalizing cannabis outright has reached clear majority levels in a number of states.


<sup>90</sup> Geiger, Abigail. "About six-in-ten Americans support marijuana legalization." *Pew Research Center*. Jan. 5, 2018, <http://www.pewresearch.org/fact-tank/2018/01/05/americans-support-marijuana-legalization/>

<sup>91</sup> Subbaraman, Meenakshi Sabina et al. "Support for marijuana legalization in the US state of Washington has continued to increase through 2016." *Drug & Alcohol Dependence*, vol 175, pp. 205 - 209. DOI: <https://doi.org/10.1016/j.drugalcdep.2017.02.015>.

<sup>92</sup> Baca, Ricardo, "Do Coloradans regret legalizing marijuana? New poll says voters see pot as boon to state." *The Cannabist*. Sept. 19, 2016, <https://www.thecannabist.co/2016/09/19/legal-marijuana-colorado-buyers-remorse/63175/>.

<sup>93</sup> "U.S. Voter Support For Marijuana Hits New High; Quinnipiac University National Poll Finds; 76 Percent Say Their Finances Are Excellent Or Good." *Quinnipiac University Poll*. April 20, 2017, <https://poll.qu.edu/national/release-detail?ReleaseID=2453>.

**Table 4:**  
**2018–2019 State**  
**Polling Data on**  
**Support for**  
**Marijuana**  
**Legalization**<sup>94</sup>

|  State | Month/Year     | Conducted By                                      | Support | Oppose |
|---|----------------|---|---------|--------|
| New York <sup>95</sup>  | May 2018       | Quinnipiac University                             | 63      | 32     |
| Michigan <sup>96</sup>  | May 2018       | Michigan State University                         | 61      | 34     |
| Georgia <sup>97</sup>   | May 2018       | SurveyUSA/11Alive                                 | 55      | 35     |
| New Mexico <sup>98</sup>  | May 2018       | Research & Polling Inc.                           | 63      | -      |
| Maryland <sup>99</sup>  | May/June 2018  | Washington Post/U. of Maryland                    | 52      | 41     |
| Texas <sup>100</sup>  | June 2018      | University of Texas/Texas Tribune                 | 53      | 47     |
| Arizona <sup>101</sup>  | June 2018      | Emerson College                                   | 53      | 39     |
| New Jersey <sup>102</sup>   | August 2018    | Quinnipiac University Poll                        | 62      | 33     |
| Connecticut <sup>103</sup>  | August 2018    | Quinnipiac University Poll                        | 59      | 36     |
| Wisconsin <sup>104</sup>  | August 2018    | Marquette University Law School                   | 61      | 36     |
| Minnesota <sup>105</sup>  | September 2018 | KSTP/Survey USA                                   | 56      | 35     |
| Maryland <sup>106</sup>   | September 2018 | Goucher Poll                                      | 62      | 33     |
| New Mexico <sup>107</sup>   | September 2018 | ABQ Journal/Research & Research Inc.              | 60      | 32     |
| Georgia <sup>108</sup>  | October 2018   | Survey USA/11Alive                                | 55      | 33     |
| Delaware <sup>109</sup>   | October 2018   | UD Center for Political Communication             | 61      | -      |
| Wisconsin <sup>110</sup>  | October 2018   | Myers Research                                    | 64      | 29     |
| Wyoming <sup>111</sup>  | October 2018   | University of Wyoming, Survey and Analysis Center | 69      | -      |
| New Jersey <sup>112</sup>   | October 2018   | Rutgers-Eagleton                                  | 58      | 37     |
| Rhode Island <sup>113</sup>   | October 2018   | WPRI/Roger Williams University                    | 56      | 37     |
| Kansas <sup>114</sup>   | October 2018   | Fort Hays University                              | 52      | 39     |
| Minnesota <sup>115</sup>  | October 2018   | Survey USA  | 56      | 32     |
| Indiana <sup>116</sup>  | Fall 2018      | Ball State University                             | 78      | -      |
| Wisconsin <sup>117</sup>  | November 2018  | Consumer Choice Center                            | 56      | 35     |
| New York <sup>118</sup>   | January 2019   | Quinnipiac University Poll                        | 65      | 31     |
| Wisconsin <sup>119</sup>  | January 2019   | Marquette University Law School                   | 58      | 36     |
| New Jersey <sup>120</sup>   | February 2019  | Monmouth University                               | 62      | 32     |
| New Hampshire <sup>121</sup>  | March 2019     | UNH Granite State Poll                            | 68      | 27     |
| New York <sup>122</sup>   | March 2019     | Yarist Poll                                       | 57      | 38     |
| Arizona <sup>123</sup>  | March 2019     | Predictive Insights                               | 52      | 41     |
| New York <sup>124</sup>   | March 2019     | Quinnipiac University Poll                        | 65      | 32     |
| Montana <sup>125</sup>  | March 2019     | University of Montana                             | 51      | 37     |
| Pennsylvania <sup>126</sup>   | March 2019     | Franklins & Marshall                              | 59      | -      |
| Louisiana <sup>127</sup>  | April 2019     | LSU Public Policy Research Lab                    | 55      | -      |

<sup>94</sup> State polls compiled by the National Organization for the Reform of Marijuana Laws, <http://norml.org/library/state-polls-legalization>.

<sup>95</sup> Quinnipiac University poll asking, “Do you support or oppose allowing adults in New York State to legally possess small amounts of marijuana for personal use?” <https://poll.qu.edu/new-york-state/release-detail?ReleaseID=2541>, accessed May 9, 2018.

<sup>96</sup> Brooks, Caroline, “Survey says: Michigan voters undecided on governor elections but have opinions on pot,” <https://www.11alive.com/article/news/local/exclusive-poll-most-georgians-now-say-recreational-marijuana-should-be-legal/85-552373483>, *MSU Today*, May 10, 2018.



<sup>97</sup> "EXCLUSIVE POLL: Most Georgians now say recreational marijuana should be legal," <https://www.11alive.com/article/news/local/exclusive-poll-most-georgians-now-say-recreational-marijuana-should-be-legal/85-552373483>, *11Alive WXIA-TV*, May 15, 2018.

<sup>98</sup> McKay, Dan, "State representative stumps statewide for pot legalization," <https://www.abqjournal.com/1175325/nm-survey-shows-63-percent-of-adults-favor-pot-legalization.html>, *Albuquerque*, May 22, 2018.

<sup>99</sup> Washington Post/University of Maryland poll asking "Would you support or oppose legalizing the sale and taxation of marijuana for personal use?", [https://www.washingtonpost.com/page/2010-2019/WashingtonPost/2018/06/06/National-Politics/Polling/question\\_20433.xml](https://www.washingtonpost.com/page/2010-2019/WashingtonPost/2018/06/06/National-Politics/Polling/question_20433.xml), accessed June 6, 2018.

<sup>100</sup> Ramsey, Ross, "Led by Democrats and young adults, most Texas voters want to legalize marijuana, UT/TT Poll finds," <https://www.texastribune.org/2018/06/27/marijuana-democrats-young-adults-texas-poll/>, *Texas Tribune*, June 27, 2018.

<sup>101</sup> Emerson College poll asking "Do you support legalizing marijuana for adults 21 and over?," <https://www.emerson.edu/sites/default/files/Files/Academics/ecp-az-6.24.pdf>, accessed June 25, 2018.

<sup>102</sup> Quinnipiac University poll asking "Do you support allowing adults in New Jersey to legally possess small amounts of marijuana for personal use?," <https://poll.qu.edu/new-jersey/release-detail?ReleaseID=2563>, accessed August 27, 2018.

<sup>103</sup> Quinnipiac University poll asking "Do you support allowing adults in Connecticut to legally possess small amounts of marijuana for personal use?," <https://poll.qu.edu/connecticut/release-detail?ReleaseID=2564>, accessed August 23, 2018.

<sup>104</sup> Franklin, Charles, "New Marquette Law School Poll finds tight races for Wisconsin Governor, U.S. Senate seat," <https://law.marquette.edu/poll/2018/08/22/mlsp47release/>, *Marquette University School of Law Poll*, August 22, 2018.

<sup>105</sup> Hauser, Tom, "KSTP/SurveyUSA Poll: Walz has Edge Over Johnson in Governor's Race," <https://kstp.com/politics/kstp-surveyusa-poll-tim-walz-has-edge-over-jeff-johnson-in-governor-race/5069962/>, *KSTP*, September 15, 2018.

<sup>106</sup> Goucher Poll asking "Do you support the legalization of marijuana for recreational use?," [https://www.goucher.edu/hughes-center/documents/SEPT18\\_Goucher\\_Poll\\_Part\\_One.pdf](https://www.goucher.edu/hughes-center/documents/SEPT18_Goucher_Poll_Part_One.pdf), accessed September 18, 2018.

<sup>107</sup> McKay, Dan, "Journal Poll: NM voters back legal marijuana," <https://www.abqjournal.com/1223550/nm-voters-back-legal-marijuana.html>, *Albuquerque Journal*, September 21, 2018.

<sup>108</sup> Padgett, Lauren, "11Alive poll: Georgia voters split on governor's race, approve of legal pot, arming teachers," <https://www.11alive.com/article/news/politics/elections/11alive-poll-georgia-voters-split-on-governors-race-approve-of-legal-pot-arming-teachers/85-602436455>, *11Alive WXIA-TV*, October 19, 2018.

<sup>109</sup> Bittle, Matt, "UD poll: Most favor legal weed, universal health care," <https://delawarestatenews.net/news/ud-poll-most-favor-legal-weed-universal-health-care/>, *Delaware State News*, October 18, 2018.

<sup>110</sup> Jaeger, Kyle, "Marijuana Questions Will Drive Wisconsin Voters To The Polls In November, Survey Shows," <https://www.marijuanamoment.net/marijuana-questions-will-drive-wisconsin-voters-to-the-polls-in-november-survey-shows/?fbclid=IwAR0-ZO6McrE6T493nNRqMV3scYdOrQ0i-tQvzZzPpo-jBCL22VyoUrE344s>, *Marijuana Moment*, October 23, 2018.

<sup>111</sup> University of Wyoming poll asking "If marijuana use is not legalized, do you think people convicted of possessing small amounts of marijuana should serve time in jail, or not?," <https://wysac.uwyo.edu/wysac/reports/View/6670>, accessed on October 22, 2018.

<sup>112</sup> Rutgers-Eagleton Poll asking "Do you support completely legalizing the possession and personal use of recreational marijuana?," <http://eagletonpoll.rutgers.edu/nj-marijuana-october2018/>, accessed on October 30, 2018.

<sup>113</sup> White, Tim and Nesi, Ted, "WPRI 12/RWU Poll: Majority in RI favor legalized marijuana," <https://www.wpri.com/politics/wpri-12rwu-poll-majority-in-ri-favor-legalized-marijuana/1560437134>, *WPRI*, October 30, 2018.

<sup>114</sup> Fort Hays University poll asking "Do you support legalizing recreational marijuana for individuals 21 and older to allow taxation by the State of Kansas?," <https://www.fhsu.edu/docking/Kansas-Speaks/kansas-speaks-report-fall-2018-updated-v5>, October 2018.

<sup>115</sup> Chaloux, Eric, "Marijuana Legalization Wafts on to Campaign Trail in Minnesota Races," <https://kstp.com/politics/marijuana-legalization-wafts-onto-campaign-trail-in-minnesota-races/5132339/>, *KSTP*, November 2, 2018.

<sup>116</sup> Hoosier Survey asking "Should those convicted of possessing small amounts of marijuana should not serve jail time?," <http://bowencenterforpublicaffairs.org/wp-content/uploads/2018/11/ONB-BSU-2018-Hoosier-Survey.pdf>, accessed November 2018.

<sup>117</sup> Consumer Choice Center poll asking "Do you support or oppose legalizing the recreational use of marijuana and regulating it like alcohol in Wisconsin?," [https://consumer-choicecenter.org/wp-content/uploads/2018/11/CCC\\_WI\\_POLL.pdf](https://consumer-choicecenter.org/wp-content/uploads/2018/11/CCC_WI_POLL.pdf), accessed November 2018.

<sup>118</sup> Quinnipiac University poll asking "Do you support allowing adults in New York to legally possess small amounts of marijuana?," <https://poll.qu.edu/new-york-state/release-detail?ReleaseID=2595>, accessed January 24, 2019.

<sup>119</sup> Franklin, Charles, "New Marquette Law School Poll finds some issues less divisive amid continuing partisan divide," <https://law.marquette.edu/poll/2019/01/24/mlsp51release/>, *Marquette University School of Law Poll*, January 24, 2019.

<sup>120</sup> Monmouth University poll asking "Do you support legalizing the possession of small amounts of marijuana for personal use?," [https://www.monmouth.edu/polling-institute/reports/monmouthpoll\\_nj\\_021819/](https://www.monmouth.edu/polling-institute/reports/monmouthpoll_nj_021819/), accessed February 18, 2019.

<sup>121</sup> Granite State poll asking "Do you support legalizing the possession of small amounts of marijuana for personal recreational use?," [https://scholars.unh.edu/survey\\_center\\_polls/554/](https://scholars.unh.edu/survey_center_polls/554/), accessed March 5, 2019.

<sup>122</sup> Marist Poll asking "Do you support Gov. Cuomo's push to legalize recreational marijuana in New York?," <http://maristpoll.marist.edu/nbc-4-new-york-marist-poll-results-analysis/#sthash.zaMD06fj.IIUadEPI.dpbs>, accessed on March 6, 2019.

<sup>123</sup> OH Predictive Insights poll asking "Do you support legalizing marijuana for adult use in Arizona?," <https://ohpredictive.com/press-releases/poll-arizonans-support-the-legalization-of-marijuana/>, accessed on March 7, 2019.

<sup>124</sup> Quinnipiac University poll asking "Do you support allowing adults in New York State to legally possess small amounts of marijuana for personal use?," <https://poll.qu.edu/new-york-state/release-detail?ReleaseID=2607>, accessed on March 20, 2019.

<sup>125</sup> University of Montana poll asking "Do you think marijuana should be legalized in Montana?," <http://news.umt.edu/2019/03/032119poll.php>, accessed on March 21, 2019.

<sup>126</sup> Franklin & Marshall College Poll asking "Do you think the use of marijuana should be made legal, or not?," <https://www.fandm.edu/uploads/files/503040077590675717-f-m-poll-release-march-2019.pdf>, accessed March 28, 2019.

<sup>127</sup> Meyer, Madeline, "How do Louisianans feel about sports gambling, marijuana, gun laws? Survey says...," <https://www.theadvertiser.com/story/news/local/louisiana/2019/04/18/lsu-survey-gauges-sports-gambling-marijuana-gun-laws/3504687002/>, *Daily Advertiser*, April 18, 2019.

# RECOMMENDATIONS

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“The situation that I think is intolerable and which I’m opposed to is the current situation we’re in, and I would prefer one of two approaches rather than where we are. Personally, I would still favor one uniform federal rule against marijuana but, if there is not sufficient consensus to obtain that, then I think the way to go is to permit a more federal approach so states can make their own decisions within the framework of the federal law and so we’re not just ignoring the enforcement of federal law.”<sup>128</sup>

—U.S. Attorney General William Barr

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The only way to allow states and their citizens to fully realize all of the potential benefits of legal cannabis is for Congress to take action. Congress should pass legislation that allows state programs to work without federal interference in a way that puts us on the path toward enacting sensible federal policies and regulations governing the production and sale of cannabis across the country. The swiftest and most practical way to achieve this would be to remove marijuana from the Controlled Substances Act. This would lift all federal criminal penalties for marijuana and would enable state-licensed businesses to finally have full access to banking services and be on equal footing with all other businesses for tax purposes by no longer subjecting state-licensed businesses to section 280E of the Internal Revenue Code. The approach would provide clarity for medical and adult-use states alike, while states that wish to maintain prohibition would remain free to do so.

As detailed in this report, allowing states to set their own marijuana laws is sound policy that has far-

reaching support across the country. Legalization would enable an emerging industry to fully flourish by providing a valuable source of new jobs and tax revenue. Polling data shows that marijuana legalization is becoming increasingly popular.

Fears about legal marijuana causing increases in teen use or highway fatalities have been unproven



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<sup>128</sup> Jaeger, Kyle, “U.S. Attorney General Says He Prefers Marijuana Reform Bill to Current Federal Law,” <https://www.marijuanamoment.net/u-s-attorney-general-says-he-prefers-marijuana-reform-bill-to-current-federal-law/>, *Marijuana Moment*, April 10, 2019.



while crime does not increase as a result of legalization. Instead, legal marijuana could actually be viewed as part of a comprehensive strategy to address the opioid crisis. Whatever concerns may exist from any potential short-term tax revenue decrease following 280E reform, the long-term tax revenue projections coupled with the substantial potential savings in Medicare Part D expenses more than offset any short-term losses, adding to the case that descheduling marijuana is the sensible thing to do.

Alternatively, Congress can take an incremental approach and address the various issues on a bill-by-bill basis. Standalone legislation to bring tax equity and create access to banking services would be meaningful first steps that would bring a much-needed level of predictability and fairness for state-licensed marijuana businesses. Legislation to allow state medical marijuana programs to operate free from federal interference would bring a tremendous sense of relief to millions of patients living with chronic or severe conditions.

Congress should continue to address marijuana reform through amendments to appropriations bills. Since 2014, Congress has included a restriction in the Commerce, Justice, Science Appropriations bill prohibiting the Department of Justice from interfering with conduct permitted under state medical marijuana laws. Moving forward, Congress should maintain this protection and pass similar protections through the appropriations process to protect adult-use states, create access to banking services, help fund state expungement programs, and allow Departments of Veterans Affairs physicians to issue state medical marijuana recommendations.

Congress should take action on the following bills in order to bring about meaningful reform to federal marijuana laws:

## Comprehensive Legislation

### **H.R. 1456 & S. 597 - Marijuana Justice Act of 2019**

*Rep. Barbara Lee (D-CA)*

*Sen. Cory Booker (D-NJ)*

- Removes marijuana from the Controlled Substances Act, thereby eliminating all federal marijuana crimes and resolving 280E and banking access issues
- Would create a pathway for expungement and resentencing for those previously convicted of federal marijuana crimes
- Encourages states to end discriminatory enforcement of marijuana laws by reducing certain federal funding to states who disproportionately arrest people of color and low-income communities
- Creates a reinvestment fund to repair the communities most severely harmed by decades of marijuana prohibition

### **H.R. 2093 & S. 1029 - Strengthening the Tenth Amendment through Entrusting States (STATES) Act**

*Rep. Earl Blumenauer (D-OR); Rep. David Joyce (R-OH)*

*Sen. Cory Gardner (R-CO); Sen. Elizabeth Warren (D-MA)*

- Would generally exempt marijuana conduct permitted by states from the Controlled Substances Act with a few exceptions such as continuing to prohibit non-medical distribution to minors, employing minors at marijuana businesses, and manufacturing that creates a substantial risk of endangering the public
- Seeks to relieve the 280E tax burden for state-compliant cannabis businesses
- Provides clarity surrounding the legal status of financial transactions made by legal cannabis businesses in order to facilitate access to banking services

### **H.R. 1588 - Ending Federal Marijuana Prohibition Act of 2019**

*Rep. Tulsi Gabbard (D-HI)*

- Would repeal all federal penalties for possessing and growing marijuana, allowing states to establish their own marijuana laws by removing cannabis from the Controlled Substances Act, enabling 280E relief and access to banking services
- Permits interstate commerce between states that have adopted marijuana programs, prohibits transport into states where marijuana remains illegal

### **H.R. 1455 - Restraining Excessive Federal Enforcement & Regulations of Cannabis (REFER) Act of 2019**

*Rep. Barbara Lee (D-CA)*

- Would prevent the federal government from using funds to interfere with state marijuana regulation programs
- Would prevent the federal government from seizing funds or property from businesses and individuals engaged in state-legal marijuana activity
- Protects financial institutions from being punished for working with state-legal marijuana businesses

### **H.R. 1120 & S. 420 - Marijuana Revenue and Regulation Act**

*Rep. Earl Blumenauer (D-OR)*

*Sen. Ron Wyden (D-OR)*

- Removes marijuana from the Controlled Substances Act
- Allows the federal government to establish regulations and taxation for legal marijuana commerce, including licensing businesses and approving specific products



## Incremental Legislation and Appropriations Amendments

### **H.R. 1595 & S. 1200 - Secure and Fair Enforcement (SAFE) Banking Act of 2019**

*Rep. Ed Perlmutter (D-CO); Rep. Denny Heck (D-WA); Rep. Steve Stivers (R-OH); Rep. David Joyce (R-OH)  
Sen. Jeff Merkley (D-OR); Sen. Cory Gardner (R-CO)*

- Provides a “safe harbor” and additional protections for financial institutions that provide products or banking services to marijuana businesses in compliance with state law
- Would make it easier to regulate state-authorized marijuana businesses by no longer forcing them to operate exclusively through cash transactions
- Increases access to capital for small businesses and marginalized communities through bank loans
- Mandates a study on access to financial services for women and people of color in the cannabis industry

### **H.R. 1118 & S. 422 - Small Business Tax Equity Act of 2019**

*Rep. Earl Blumenauer (D-OR)*

*Sen. Ron Wyden (D-OR)*

- Amends Section 280E Internal Revenue Code to exempt state-licensed businesses that sell marijuana so that they are able to take ordinary business tax deductions
- Would reduce the typical federal tax burden imposed on state-authorized businesses from around 60-90% down to 21-30%

### **H.Res. 163 - Realizing Equitable & Sustainable Participation in Emerging Cannabis Trades (RESPECT) Resolution**

*Rep. Barbara Lee (D-CA)*

- Urges action to increase equity within the legal cannabis marketplace
- Advises state and local governments on best practices and implementation of equity and restorative justice provisions

**For more information about specific legislative proposals to align federal law with modern state cannabis programs, contact:**

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