

**EXAMINING CANNABIS BANKING CHALLENGES OF
SMALL BUSINESSES AND WORKERS**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED EIGHTEENTH CONGRESS
FIRST SESSION
ON
EXAMINING CANNABIS BANKING CHALLENGES OF SMALL BUSINESSES
AND WORKERS

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THURSDAY, MAY 11, 2023

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

The Committee met at 9:45 a.m., in room 538, Dirksen Senate Office Building, Hon. Sherrod Brown, Chair of the Committee, presiding.

OPENING STATEMENT OF CHAIR SHERROD BROWN

Chair BROWN. Thanks to Senators Merkley and Daines for being here to testify and welcome to our other witnesses on the second panel. And thank you to Ranking Member Scott for working with us on this hearing.

The cannabis landscape looks far different than it did even a few short years ago. Cannabis has been legalized or decriminalized in almost every State. States and localities have established licensing and social equity programs to ensure that small businesses and communities impacted by the war on drugs are part of the growing legal cannabis industry.

Today, we will hear about the challenges that small businesses and workers continue to face, and how we can empower and protect workers, provide stronger consumer and small business protections, and ensure fair and equitable access to financial services, all while making sure that our communities stay safe.

Banking, of course, is critical for small cannabis businesses who already face hurdles getting their business off the ground. Like any business, they need to apply for licenses and raise capital. But that is hard to do when you do not have a bank account, or if you do, one that might come with lots of fees.

Without full access to the banking and payments system, legal cannabis businesses are forced to operate in the shadows. They cannot access SBA loans and know that even if they try to apply for a bank loan, they might go through all the costs and effort only to be denied. So many small businesses rely on friends and family for funding. They deal with lots of cash, spend precious time trying to find a work-around, or hire expensive third-party service providers that take a hefty cut of their slim profits. This puts a robbery target on the backs of workers and can make it harder to combat money laundering.

There are also thousands of workers who cannot prove their income to get a mortgage or a car loan, or keep a personal bank account, even though their paychecks came from a business that is perfectly legal in their State.

Many of these workers are represented by unions, important to this Committee, represented by unions like the UFCW and the International Brotherhood of Teamsters, which are fighting to make sure that their workers have more power in the workplace, in an industry where their physical safety is too often at risk.

The effects of this patchwork system go beyond just the cannabis industry. Sheet metal and air conditioning contractors build service retail locations and other facilities. Lawn care and gardening companies, like Scotts Miracle-Gro in central Ohio, sell materials and equipment. They want to continue their businesses and serve their customers, and they do not want to worry that it will put their bank accounts at risk.

While small businesses and workers deal with these challenges, the large cannabis companies are the ones dominating the market. They have ready access to private capital and are taking advantage of their workers with unfair labor practices to maximize profits. I stand by the workers who are actively fighting for higher wages and safer workplaces.

We do not want the cannabis industry to become like Big Tobacco—concentrating industry power in just a few giant places. We know what that leads to. It hurts workers and pushes out thousands of small businesses, those small businesses likely to be owned by Black and Brown entrepreneurs, women, and veterans.

We want small banks and credit unions, MDIs, and CDFIs to be able to serve small businesses and their workers, and level the playing field in an industry that is increasingly concentrated.

Community banks and credit unions in my State want to serve the legal cannabis industries in their communities, and they want to rest assured that they can continue to bank their existing customers.

Banks and credit unions should not have to pick and choose which services they can offer to customers that happen to earn their income from a cannabis business. People in the cannabis industry should be able to have the same types of personal, commercial, and mortgage loans that any other customer can have, with the same protections and without additional costs or fees.

And as we all know, the over-criminalization of marijuana has disproportionately hurt communities of color and indigenous communities.

We have a long way to go to right those wrongs. We can start by ensuring that members of these communities not only benefit from, but also lead, the growth of the legal cannabis industry.

MDIs and CDFIs can help reach these communities that are often overlooked—or worse, preyed upon—by other financial institutions. And people with prior marijuana convictions, especially in States where it is now legal, should not be barred from participating in our economy, whether it is renting a home or finding a good-paying job.

We all want safe communities and a safe banking system. We all know, after the recent bank failures sparked by a panic-induced

run, banks must manage the risks of their businesses. And they need to understand that failure to meet stakeholder expectations can have dire consequences for their customers.

We must not weaken regulators' ability to protect consumers and the banking system from these risks.

Financial institutions also play an important role in monitoring our financial system for fraud, money laundering, and other illegal activities. We need to ensure that workers and small businesses in the cannabis industry can access banking, while maintaining our robust anti-money laundering framework.

I have heard from law enforcement officials who say that expanding banking access to cannabis businesses can help improve public safety, and direct resources toward truly criminal activity.

Cannabis banking is of course just one part of the conversation on marijuana policy. People should not be thrown in jail for a product that others are legally profiting from. We have been able to work together in the past on a bipartisan basis to give those with prior convictions a second chance.

Everyone, including our veterans, should have access to the medicine they need to care for themselves and their families. And if we truly care about public health, we should consider more medical and scientific research on this topic, something that Senator Tester has been particularly involved in, as the leader of the Veterans Affairs Committee.

There is more work to be done to make sure everyone can participate in the banking system and the legal cannabis economy in a fair, safe, and equitable way. I am glad we are building on the progress we have made over the years, and I look forward to continuing these conversations.

Ranking Member Scott.

OPENING STATEMENT OF SENATOR TIM SCOTT

Senator SCOTT. Thank you, Mr. Chairman. Thank you to both of you for being here with us today, particularly to Senator Daines for your hard work and dedication on this topic for a number of years, as well as acknowledging both Senators Cramer and Lummis for their hard work as well, on such an important topic.

Each one of us on this Committee represents different States with different marijuana laws, and I understand that some of us may be in very different places when it comes to the legality of marijuana. In my home State of South Carolina, marijuana is largely still illegal, and I, myself, have concerns with it.

And at the Federal level, marijuana is considered a Schedule I drug, which means that the possession, distribution, or sale of marijuana and other marijuana-derived products is illegal and that proceeds from marijuana-related businesses are subject to U.S. anti-money laundering laws.

The Department of Justice and national law enforcement groups have expressed concerns that the SAFE Banking Act could create loopholes in our money-laundering laws, making it harder to catch criminals that traffic weapons, fentanyl, and even people—much harder, which is a consequence that we must eliminate if this bill is to become law.

However, there are some States that have legalized marijuana, and now we have legal State-based marijuana-related businesses throughout the country that depend on a relationship with their bank or credit union. And as a former small business owner, I understand and appreciate the importance of having that relationship with your financial institution. A banking relationship is crucial to providing safety and stability for a company, both employees and the customers it serves.

That is why I am looking forward to hearing from our second panel of witnesses on how these businesses operate, the complications faced by these businesses, and how the safe harbor provided in the SAFE Banking Act would work in practice or if more is needed to ensure compliance.

Finally, if we are going to have a conversation about SAFE Banking and banking a product that is illegal at the Federal level, then we must discuss the importance of banking all industries. In the past few years, we have seen certain financial institutions cave to political pressures and take actions to “de-bank” certain legal industries, such as firearms and oil and gas entities, due to the wild progressive nature of the radical left and their agenda. These same institutions that are asking us to take a second look at the SAFE Banking Act are frankly standing in the way of banking legal entities today. I find that disappointing and quite perplexing.

Congress has a responsibility to ensure that all legal industries have access to financial institutions and services. I understand that SAFE Banking, as drafted, currently contains a provision to ensure that legal industries are banked. De-banking legal industries is inappropriate, and I look forward to hearing more about that part of the legislation as we continue the discussion today. I hope today’s hearing lends itself to a thoughtful debate on this issue.

Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Scott. The first panel I invite Senator Merkley of Oregon—thank you for your work on this—and Senator Daines of Montana to speak. Some, as you both know, as this has moved perhaps more slowly than many hoped, have tried to use this issue as a back-door way to weaken bank safeguards that protect our economy. I want to be clear, nothing—nothing—goes through this Committee that weakens consumer protections and the safety and soundness of the banking industry.

Senator Merkley, please begin.

STATEMENT OF SENATOR JEFF MERKLEY OF OREGON

Senator MERKLEY. Chairman Brown, Ranking Member Scott, Members of the Committee, thank you for holding this hearing today on the SAFE Banking Act. I got engaged in this issue some 8 years ago because of the problems created by the cash economy in cannabis, and from the beginning it has been a bipartisan effort to address these challenges and a compliment to former Senator Cory Gardner who worked on this, and it has been a real pleasure to work with my colleague, Steve Daines of Montana, as we seek to pursue solutions to the advancement of crime through a cash economy. And Chairman Brown, thank you for your partnership and for the collaboration that brought us to this moment today.

Half of all States across our Nation have some form of legalized cannabis—37 States have legal cannabis for medicinal purposes, and 21 have legal cannabis for recreational use. It is an industry that supports more than 428,000 jobs and accounts for over \$25 billion in retail sales. It is becoming a sizable industry.

In my home State of Oregon, we had nearly \$1 billion in sales last year, and the taxes generated from those sales helped fund our schools, mental health and substance abuse treatment programs, as well as law enforcement and city and county needs.

But our Federal law has not kept pace with Americans' changing attitudes toward cannabis, nor with the changing laws at the State and local level. That failure has denied these legitimate businesses the ability to access the same basic necessities as every other business, whether it is access to banking and credit card accounts, payroll services, and more, because depository institutions and credit unions, are worried they may be threatened with prosecution under Federal law, and they have largely refused to work with this industry.

So three-quarters of the cannabis economy operates entirely in cash. The few financial institutions that do work with cannabis businesses charge extraordinary fees because of the risk and the added layers of compliance. And this cash-only situation just trickles down far beyond the cannabis retailers and growers. It proceeds to affect all of the associated businesses, whether they are providing fertilizer or they are setting up greenhouses or they are selling seeds, or any other way connected, and many of them get thrown off their banking as a result of being a supplier to the cannabis economy.

It affects the employees of these legal cannabis businesses who cannot be paid by check or direct deposit. They have to walk around with wallets full of cash, worried that they will be a target for criminals on payday.

Forcing legal businesses to operate in a cash economy is terrible for accountability, but it is great for crime. It has left these businesses, and all that are connected to them, open to violent crime, open to money laundering, employee theft, tax fraud, and more.

And Ranking Member Scott, I wanted to mention, there is nothing like a cash economy to facilitate money laundering. The lack of electronic records in this world makes it really easy to move money that should not be moved. So it is a piece of the conversation I hope will come out as this bill is explored.

There is no national database to compile the stats on incidents connected to these businesses, but we do have them for some States. Over the past 12 months, we have had 129 robberies of Oregon cannabis businesses, and we have seen that in State after State because the criminals know that since they are operating in cash, there is cash inside those stores, so they proceed to assault them. They know that the employees might be taking that cash out for transactions, so employees get assaulted.

So whether it is the robberies, whether it is the assaults, whether it is the money laundering, all of it is bad news that we can address by passing this bill.

If these businesses have the ability to accept debit cards and credit cards, use the same systems to pay their taxes and payrolls, all of those incentives for those crimes goes away.

The Secure and Fair Enforcement Banking Act, or SAFE Banking Act, that Senator Daines and I have introduced and led together, would ensure that legitimate businesses, operating in compliance with State laws in those States where citizens have said they want this—so it is a State’s rights issue—will have access to the same financial services as every other business.

And I do want to mention that as Senator Scott pointed out, we do have provisions here to address the issue of reputational risk being used against certain parts of the economy, in an inappropriate way. So we are pleased to add that as a strengthening part of this bill.

Financial institutions will be protected against prosecution or asset forfeiture primarily for providing services to a State-sanctioned cannabis-related business.

To be clear, banks will not be forced to provide services to cannabis businesses. It is their choice. But if they provide that, they will have a safe space for the institutions and the industry.

It explicitly extends that safe harbor to Community Development Financial Institutions, that the Chairman mentioned, and Minority Depository Institutions, MDIs, who serve underserved communities facing that have been disproportionately affected by cannabis enforcement in the past.

After much consultation with colleagues and outside experts, this bill does include provisions to address concerns around equity and issues around law enforcement and money laundering raised in a memo by the Department of Justice last year.

As a result, we have a piece of legislation that has significant bipartisan support, significant bicameral support. It has passed out of the House seven times. It is supported by people who believe the time has come to end the cash economy that hurts people in so many different ways.

I would like to submit into the record letters from current Oregon cannabis retailers, sharing their own stories of the challenges and dangers facing them in this all-cash environment.

Chair BROWN. Thank you, Senator Merkley. Before Senator Daines begins I would like to recognize Congressman Blumenauer from Portland, who is here and worked aggressively in the House on this issue. Earl, good to see you.

Senator Daines is recognized.

STATEMENT OF SENATOR STEVE DAINES OF MONTANA

Senator DAINES. Chairman Brown, thank you. Ranking Member Scott, thank you as well.

I am very pleased that the Banking Committee is holding a hearing on this important topic. Across my home State of Montana and in communities across the country, legal businesses are facing a public safety crisis. These businesses, often forced to operate in all cash, are appealing targets for robbers.

Senator Merkley talked about what is happening in his State of Oregon. Just to the north of him, in Washington State for instance, 2022 saw at least 100 armed robberies at cannabis retail stores,

the most in the past 10 years. Tragically, several of these incidents ended in bloodshed.

The SAFE Banking Act would help address a major cause of this increase in violent crime by providing a safe harbor for depository institutions and service providers to transact with State-sanctioned marijuana businesses. In short, this bill would make it much easier for businesses to put their cash into banks. It is really not that complicated.

Some of the witnesses today will say that there are hundreds of banks and credit unions providing financial services to State-sanctioned marijuana businesses, and that SAFE Banking is not needed. However, the truth is that only approximately 9 percent of the financial institutions in America have provided services to any marijuana-related businesses, meaning that those who are providing financial services face limited competition and charge substantially more to bank these clients than other businesses, resulting in services being prohibitively expensive for many businesses.

This legislation would also help Federal and State law enforcement distinguish between the legal and the illegal marijuana businesses.

Opponents of this bill will say that SAFE Banking will help to grow the \$25 billion market for marijuana in the United States. However, the real size of the market is estimated to be at \$100 billion, of which roughly 75 percent is illicit cannabis production.

Allowing cash from legal, regulated businesses to enter the banking system will help law enforcement more easily distinguish legitimate actors and focus more of their resources on prosecuting the illicit market, and in so doing, may actually shrink the size of the overall industry and reduce consumption in the United States. If nothing else, SAFE Banking will greatly increase tax compliance and tax revenue for States.

This legislation is widely supported by banks, by credit unions, by the insurance industry, and many other service providers who at present do not have clear guidelines for how they can safely and legally transact with State-sanctioned marijuana businesses. Roofers, plumbers, electricians, and other similar service businesses are technically at risk of engaging in illegal money laundering simply for putting on a few shingles, fixing a leaky pipe, or safely wiring a building. In States where these are legally operating businesses, do opponents of this bill really believe that hard-working tradesmen and women should be put in this impossible position?

There is a bipartisan coalition of 38 State and territorial attorneys general who have come out in support of this bill in the past, and we have strengthened it considerably based on feedback from the Department of Justice.

I want to quote one of my county sheriffs back in Montana, Lincoln County Sheriff Darren Short, up in the very northwest part of Montana. He says this, and I quote:

It concerns me that businesses have such a large amount of cash on hand, which is clearly a liability and a public safety issue. I also believe that any all-cash business is going to be rife with fraud, so it is an accounting problem as I see it too. As far as marijuana legalization goes, the voters of Montana made that decision and now it is our role to make it safe and make it work. I am happy to support the SAFE Banking Act.

This bill does not legalize marijuana. I personally do not support Federal legalization of marijuana. The people of Montana voted 57–43 in a ballot initiative in 2020, to legalize recreational marijuana.

The people in States across this country have spoken, and it is abundantly clear that the status quo is not only untenable, it is very dangerous. The SAFE Banking Act is a commonsense bill that can and should pass and would immediately improve the public safety threats we are seeing on the ground in our States. I ask my colleagues to look at this issue with open eyes, and I look forward to hearing their input today. Thank you.

Chair BROWN. Thank you, Senator Daines. Senator Merkley and Senator Daines, thanks for joining us. I know you have places to go, so thanks for being part of this.

Will the other witnesses please come forward. Three are in person. I believe Ms. Sullivan is joining us virtually.

I will begin the introductions as you are seated.

Mr. Ademola Oyefeso is International Vice President and Director of Legislative and Political Action Department at the United Food and Commercial Workers International Union. Welcome, Mr. Oyefeso. He was the Senior Director of Political Affairs and Strategic Initiatives at the Retail, Wholesale, and Department Store Union.

Dr. Kevin Sabet is the President and CEO of Smart Approaches to Marijuana, the Foundation for Drug Policy Solutions. He is an affiliate of Yale University's Institution for Social and Policy Studies. He received his Doctor of Philosophy and Master of Science from Oxford. He is a Marshall scholar. Welcome.

Michelle Sullivan, who is joining us from her home or office, is the Chief Risk and Compliance Officer at Dama Financial. Previous to joining she held roles as Senior Vice President and Director of Corporate Risk Operations and Senior Vice President and Director of Corporate Fiduciary Compliance.

And Ms. Cat Packer is the Vice Chair of the Cannabis Regulators of Color Coalition, the Director of Drug Markets and Legal Regulation of the Drug Policy Alliance. From 2017 to 2022, Ms. Packer served as the first Executive Director of the city of Los Angeles Department of Cannabis Regulation. She received a bachelor's and master's degree, a juris doctor, from Ohio State University. I wish you still lived there, but whatever.

Mr. Oyefeso, please begin.

STATEMENT OF ADEMOLA OYEFESO, INTERNATIONAL VICE PRESIDENT AND DIRECTOR OF LEGISLATIVE AND POLITICAL ACTION DEPARTMENT, UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION (UFCW)

Mr. OYEFESO. Good morning, Chair Brown and Ranking Member Scott, and Members of the Committee. Thank you for the opportunity to testify today. I am Ademola Oyefeso with the United Food and Commercial Workers Union.

UFCW represents over 1.3 million hard-working men and women who work in highly regulated industries, including over 10,000 workers in the cannabis industry. Our cannabis members can be found everywhere from seed to sale. As the leading union in can-

nabis, UFCW is committed to shaping this industry into one that provides safe, well-paid, and family sustaining jobs for all workers.

All jobs have challenges, but few industries face the unique challenge of a Federal prohibition on access to legal banking. Workers are paid in cash, and the cash-heavy nature of cannabis retail creates safety and financial problems for businesses, customers, and workers. The majority of people in the cannabis industry are workers, and in order for these workers to have the same opportunities for advancement and safety, Congress must directly address the cannabis banking challenge.

There are few banks that are willing to provide their services to cannabis employers, and this leaves workers struggling to find a place to do their own personal banking. Without a bank that will accept their paycheck or proof of employment, like a pay stub, cannabis workers struggle to purchase homes and often find themselves having to pay higher mortgage rates, even though they work in a perfectly legal profession in their State. The lack of banking makes it difficult to get personal loans for homes and cars as well.

Ashley Batista, a member of UFCW Local 1776KS and a worker at Jushi, a cannabis grow and processing facility in Scranton, Pennsylvania, notes the challenges and benefits of banking for her and her coworkers:

I have watched several coworkers who saved up every nickel and dime for a downpayment on a home, just to be denied a home loan due to the legality of their profession. Cannabis workers face negative stereotyping and discrimination also. Having the support of traditional banks would help move away from the stigma on cannabis and gives us an opportunity to qualify for home loans, improve financial stability, and allow us a plan for the future.

Cannabis workers are also targets for robbery and theft, because they are known to carry cash. Ms. Batista continued: “Many employers have cut their security teams entirely and solely rely on workers to watch surveillance cameras. Dispensaries are burglarized and robbed at roughly the same rate or greater as cash-intensive businesses. Cannabis workers, like every other worker, have a right to safe working conditions.”

Cannabis banking is an equity issue. Equity in this emerging industry is an empty and hollow phrase unless it is made real and meaningful to the majority of the working people living in these communities that were harmed by the war on drugs. A regular paycheck goes hand-in-hand with good wages, quality, affordable healthcare, and a secure retirement, all things that are central to what UFCW negotiates for, for its members, and they come with a good union contract.

The emerging cannabis industry presents an unparalleled opportunity for Government to shape an industry from the ground up. There are many potential paths for cannabis, but not all paths benefit workers in the industry. A 2021 Economic Policy Institute report analyzed a high road and a low-road scenario for the future of the cannabis industry. Under the low-road scenario, cannabis workers are subject to the same harmful practices inflicted on workers in similar agricultural settings. And under the high road scenario, unionization ensures that cannabis jobs are good jobs. Access to banking is part of the high road scenario for cannabis workers.

Cannabis workers do not deserve to be treated as criminals and should not have to struggle with financial and legal ambiguity on the job. On behalf of all workers in the cannabis industry, we urge Congress to give the same access to financial systems and Federal benefits that all other Americans already enjoy.

Thank you for the opportunity to testify, and I would be happy to answer your questions.

Chair BROWN. Thank you, Mr. Oyefeso.

Mr. Sabet.

STATEMENT OF KEVIN A. SABET, PRESIDENT AND CEO, SMART APPROACHES TO MARIJUANA, AND FELLOW, YALE UNIVERSITY

Mr. SABET. Thank you, Mr. Chairman and Ranking Member Scott. I did notice that there were five proponents for this bill, and while I will not ask for equal time, if you do not mind I have about a 5- or 6-minute oral remarks. Thank you.

So given the obvious and widespread problems in the banking industry, I have got to say I am a little surprised that we are discussing this particular issue today, at a time when our Nation is in danger of defaulting on our debt for the first time in our history, when we have an overdose epidemic in this country that is only getting worse, and frankly, the banking industry is quaking after recent failures.

I should note the hearing also comes right in the middle of the U.S. Department of Health and Human Services' National Prevention Week, at a time when suicide rates for young people are off the charts, mental health challenges are worse than ever before, and frankly, insurance companies are getting away with murder by not covering mental illness the way they do physical illness.

The idea that this Committee decided to spend its time turbocharging the marijuana industry right now, given everything else going on, I think is unfortunate. And we are spending your important time talking about how we can turn our kids into a great national experiment, an experiment rigged toward addiction, misery, and our next public health calamity.

But because we are here, let me briefly state why this bill is not what we need right now. Number one, today's marijuana is more dangerous than ever, and this bill would open up the marijuana industry to Wall Street hedge fund managers and Silicon Valley investors who will create even more hazardous products to get them in the hands of even more Americans.

Number two, the bill would open the U.S. financial system to activity from transnational criminal organizations who intend to harm Americans.

And number three, it purports to fix essentially a fake problem. Today's marijuana businesses are not dealing primarily in cash. There are hundreds and hundreds of banks working with pot businesses.

So issue one, let's be honest, today's marijuana is not about Woodstock weed. It is not about 3 to 4 percent THC. It is more about these problems that I am entering in an appendix in my written testimony, these edibles, these candies, these cereals, these concentrates, these waxes, 99 percent, supercharged THC, that has

a deleterious effect on both physical and mental health. Imagine what this would look like with even more big investors.

And frankly, you can take it from your former colleague on the other side, former Speaker John Boehner, one of the biggest proponents of marijuana today, who has said, quote, “I was on the board of a major tobacco company”—Reynolds. “Do you think tobacco is staying on the sidelines? I have talked to these guys. They are not going to sit this one out, and they have the dollars to acquire whoever they want.”

That may make big banks, Big Tobacco, Big Alcohol very happy, but it will mean more high-potency products in our schools and neighborhoods. A drug that is now responsible for a third of all schizophrenia cases in young men. According to a very large Danish study that was just released earlier this week, the number one substance found in youth suicide, marijuana, not alcohol, the number one drug for youth going to treatment today, because of supercharged marijuana. There are, in fact, more daily marijuana users now than alcohol users, a number that we would have considered unfathomable 10 years ago.

These increases we have seen in States like Colorado include 1,000 percent increases in emergency room admissions for psychosis, schizophrenia, Cannabis Hyperemesis Syndrome, which is uncontrollable vomiting, other physical ailments, and we have marijuana stores very carelessly recommending, for example, according to one study, 70 percent of pot shops recommending marijuana to pregnant women, something no medical association would endorse. In fact, if we were up here with every medical association, almost everyone in this country opposes the legalization and normalization of marijuana, which I think this bill will expedite.

Issue two, this bill would give banks cover for federally illegal transactions. That is why the better name for this legislation, I think, is the “Addiction Banking Act”. This is both a legal and financial bailout that will buttress the banking system at the expense of public health. It will increase money laundering by transnational criminal organizations, giving them access to shell corporations within the United States. It will empower further foreign cartels who are already targeting kids and communities of color that are victimized by this industry.

Let’s be frank here. Banks have a horrible track record when it comes to money laundering with other illegal drugs like fentanyl. That is why five former drug czars, including a few of my former bosses, in both Republican and Democratic administrations, oppose this, and I have entered that in my written statement as well.

And as many of you have likely heard from law enforcement in your communities, cartel activity now is booming in legal States. California Governor Gavin Newsom declared a state of emergency to contend with cartel activity in the marijuana market, which now dominates about 80 percent of that market. We should not be fooled this will help when we open up this illegal industry to the banks.

And finally, issue three. The U.S. Treasury Department says that marijuana businesses currently work with over 800 banks in this country. Multiple State regulatory bodies, including Colorado,

on the record, have admitted that marijuana businesses are being banked by State-regulated banks and credit unions.

We did our own investigation at SAM, the organization I founded with former Congressman Patrick Kennedy, because we do see this as a nonpartisan issue. Our own investigation found that pot shops were more than willing to take debit and credit cards and other noncash means.

I have to say one final note as I conclude. As someone who worked in the Obama administration most recently and is dedicated to making sure our drug laws are up to date, evidence informed, and equitable, we are not calling to arrest workers or arrest users of marijuana, throw them in prison, and increase criminal justice. But on the other hand, why would we normalize and commercialize today's super-strength marijuana, at a time when fewer than 2 percent of marijuana businesses are owned by people of color, when disparity of arrests is still happening in legalized States. In fact, young marijuana arrests in some legal States are going up, not down. When people like John Boehner represent the industry, and groups like the NAACP Illinois are our partner, warning us of persistent inequities in neighborhoods saturated with pot shops the way they are already inundated with liquor stores and the like. I think we would be fanning the flames on the addiction crisis that is staring us right in the face.

The "Addiction Banking Act" would reward the industry for sidelining and targeting communities of color, so I urge you, Members of the Committee, to do the right thing and not make it even easier to normalize and commercialize this very new substance, today's super-strength THC, and not make the same mistake as we have with other addictive industries in the past.

The fundamental question before us today is whether we should promote and normalize drug use during an overdose and addiction crisis or discourage it by helping people get treatment, achieve full recovery, and discourage use among youth, of all drugs.

Let's remember that it took us almost 100 years to reverse the public health impacts of the tobacco industry, who continually cast doubt on public health advocates with industry-funded bunk science. We have an opportunity today to not repeat those mistakes.

Thank you for your time, and I am happy to answer any questions.

Chair BROWN. Ms. Sullivan is recognized from a remote location.

STATEMENT OF MICHELLE SULLIVAN, CHIEF RISK AND COMPLIANCE OFFICER, DAMA FINANCIAL

Ms. SULLIVAN. Chairman Brown, Ranking Member Scott, and the esteemed Members of the Committee, my name is Michelle Sullivan, and I am the Chief Risk and Compliance Officer for Dama Financial. I am honored to testify before this Committee to share my experiences and lessons learned in cannabis banking as well as my opinion on the SAFE Banking Act. I have spent my career in banking, risk management and compliance, and most recently with a regional bank in Kansas City, Missouri, before joining Dama in 2017.

Dama is the largest and the first end-to-end provider of banking and payment solutions for legal cannabis businesses in the United States. Today, we partner with banks which allows our clients a single relationship with multiple financial solutions. This includes everything from access to banking and merchant services to cash management, payments, POS, and inventory management solutions, to also include solutions for their employees.

Dama was founded in 2016, to provide banking access to licensed cannabis-related businesses with a compliance-first approach following the provisions outlined in the “Cole Memo” of February 14, 2014, as well the FinCEN Guidance, BSA/AML requirements, and all applicable Federal and State laws.

Dama partners with banks that would like to provide access to banking but do not always have the resources or expertise to run a high-risk, cash extensive business and/or banking program on their own.

Dama has developed the gold standard of compliance frameworks to ensure we know our customers through enhanced due diligence, onboarding, and continued oversight. We do so in a safe and sound manner to minimize the risk of money laundering by preventing illegal operators and illicit cash from creating vulnerabilities in our financial ecosystem.

To understand the true source of funds, Dama goes beyond the high-risk banking requirements of Federal law by doing the following: drilling down to 10 percent of ownership under the UBO rule and performing onsite inspections and risk assessments that encompass inherent and residual risk throughout the lifecycle of the relationship. We reject a fair number of businesses from qualifying for our services because they are not transparent with us or they do not meet our diligent standards.

Because of these experiences, we believe the SAFE Banking Act should be stronger and encompass a more stringent statutory framework. We cannot simply rely on existing guidance without more robust legislation from Congress. It is quite possible that banking standards could be more lax after the passage of the SAFE Banking Act than there is today.

If Congress gives financial institutions a “safe harbor” to provide services to cannabis-related businesses, it must provide a tougher framework than the existing guidance. At a minimum, a financial institution should follow enhanced rules regarding board-approved risk limits, deposit ratios, and reporting criteria when limits are approached or breached, in addition to technology and staffing expertise. We must also include due diligence and ongoing monitoring requirements, especially as it pertains to cash deposits and legacy cash.

We also believe there is serious potential for confusion in the banking industry following the passage of this legislation the way it is currently written. Will the cash truly get out of the system? We do know that credit card companies have policies against banking illegal products which may prohibit cannabis transactions running across those rails even after the SAFE Banking Act passes. Without solving the larger decriminalization issues, we worry that the passage of the SAFE Banking Act alone could actually provide worse problems and a sense of resolution while huge conflicts at

the Federal level still exist. This will make it difficult for some financial institutions to proceed.

Last, as Congress wrestles with this issue, we think it should do so with a clear understanding of the opportunities for cannabis banking today. This problem is not as dire as it once was. According to FinCEN, there are over 700 financial institutions that work with legal cannabis businesses. Every company that meets the risk standards that I have briefly laid out should have access to a banking solution in America. In my opinion, we should pause and provide more teeth to the existing bill to protect the financial and banking industry as a whole.

We are happy that Congress is having this hearing today. We believe that Congress should study these issues very carefully before moving forward. We look forward to answering your questions and working with Senators from both parties to resolve the cannabis banking issues our country is facing. Thank you.

Chair BROWN. Thank you, Ms. Sullivan.

Ms. Packer, welcome.

**STATEMENT OF CAT PACKER, VICE CHAIR, CANNABIS
REGULATORS OF COLOR COALITION**

Ms. PACKER. Good morning, Chairman Brown, Ranking Member Scott, and Members of this Committee. I am honored to be addressing you for today's hearing. My name is Cat Packer, and I serve as the Vice Chair of the Cannabis Regulators of Color Coalition, the Director of Drug Markets and Legal Regulation for the Drug Policy Alliance, a cannabis policy practitioner in residence at the Ohio State University Moritz College of Law, Drug Enforcement and Policy Center, and an advisor to the Parabola Center on Law and Policy. I also had the opportunity to serve as the first Executive Director of the city of Los Angeles Department of Cannabis Regulation, where from 2017 until last year, I led the city's efforts to license and regulate commercial cannabis activity.

I first hope to contextualize the topic of today's hearing within the larger scope of challenges experienced by Americans across this Nation due to cannabis prohibition and criminalization. While small businesses and workers in State legal cannabis industries should not be treated like criminals, providing protections to financial institutions, as the SAFE Banking Act would, may be a first step to addressing banking challenges, but it would not change the fact that small businesses and workers in the cannabis industry will still be considered criminal under Federal law, nor would it end the country's failed approach to marijuana or address the harms of cannabis criminalization and related collateral consequences, nor would it address related concerns and challenges of researchers, doctors, patients, veterans, immigrants, consumers, or State and local governments. In order to address these issues we need both Congress and the President to take actions on more comprehensive reform.

Access to financial services is a basic necessity for any small business. During my time as a local regulator, I worked closely with businesses who continuously shared with me the challenges caused by unfair access to cannabis banking. Many small businesses and participants in the city's Social Equity Program de-

scribed a lack of access to capital, specifically commercial loans and SBA access, as their number one barrier, not only to entering the legal market but also to being able to compete once licensed.

And while I know the city of Los Angeles has a unique market for a number of different reasons, I know that there are other States that share these concerns and challenges, and these challenges are shared by regulators across the country whose licensees all struggle with inequitable access to capital, and regulators see access to banking as an opportunity to promote public safety, economic opportunity, and support the implementation of an effective regulatory system.

While access to banking is an important issue for many stakeholders, small businesses, workers, and State and local regulators alike, there is no better example than the existing banking industry to illustrate the reality that access to banking is not necessarily fair access to banking. In 2021, a Brookings Institution report found that Black individuals and businesses faced marked disparities compared to their White counterparts and access to banking services, and deposits, mortgage credit, and small business loans.

Moreover, a 2021 Federal Reserve report found that Black- and Latino-owned businesses were less than half as likely as their White counterparts to be fully approved for loan applications during the last year.

Last summer, with the support of Ohio State University, the Cannabis Regulators of Color Coalition published a paper that called out the difference between expanded access and fair access, and I am happy to see that after spending last year working with stakeholders and leaders, folks are making efforts to ensure that the SAFE Banking Act does not just provide protections for financial institutions, but that it includes minor and technical changes to ensure that banking access is fair. That is, after all, what the F in SAFE stands for.

I ask that you refer to my written remarks for more comprehensive details about how minor technical amendments to the SAFE Banking Act can make the bill and cannabis banking more fair. But I would like to provide one quick example that illustrates how SAFE can be further improved to promote fairness.

Existing guidance from Federal banking regulators considers criminal records a red flag or an automatic indication that a business may be engaged in illegal activity. One of our recommendations is to ensure that this updated guidance clarify that cannabis criminal records, specifically those that have been expunged or are for activity that has been pardoned or is no longer prohibited under State law, are not automatically considered red flags. Addressing this issue would allow SAFE to better promote fairness.

It is true that small businesses and workers cannot afford to continue to be shut out of banking, but it is also true that they cannot afford for the disparities in traditional banking to become the new norm for cannabis banking, and moreover, communities all across America cannot afford for the harms of cannabis criminalization to continue unchecked.

Thank you for your time and consideration, and I look forward to working with the Committee and Congress as we build momentum to address not only the challenge of cannabis banking but all

of the challenges caused by the failed policy of cannabis criminalization. Thank you.

Chair BROWN. Thank you very much, Ms. Packer.

The questions will begin by Senator Reed.

Senator REED. Well first let me thank the Chairman and the Ranking Member for the courtesy. Thank you all for your testimony.

This SAFE Banking Act, in the popular image, is focused on cannabis sales and financing involving those sales. But there is one section in the bill, Section 10, that does not apply exclusively to cannabis. It would apply to any entity that is engaged with the bank, a company, or a customer. And it would make it more difficult for Federal regulators to raise the alarm about relationships with any customer that presents significant risks to the bank. And, as I said, it is not limited to the marijuana industry—cannabis industry—so it could allow pyramid schemes or all sorts of other interesting activity to go on without an effective response by the regulator.

In addition, Section 10 would require a bank to provide a notice to a customer when the Federal Government suspects they may be engaging in illegal activity. That is like warning people to get out of town, and take the money and run, I think, is the popular image. And it has drawn some criticism, not all, some criticism, but significant criticism from consumer groups.

Mr. Chairman, I would request unanimous consent to introduce a letter from the Americans for Financial Reform, Consumer Action, Consumer Federation of America, National Association of Consumer Advocates, the National Consumer Law Center, and the National Consumers League.

Chair BROWN. Without objection, so ordered.

Senator REED. Thank you.

All of that being said, Ms. Packer, you had very thoughtful comments in your testimony regarding technical amendments, the Act, et cetera, to improve it. And would it be sensible, in your view, to limit the scope of this Act simply to the cannabis industry and not have this wide-open restraint on Federal regulation?

Ms. PACKER. Thank you, Senator. I have to be frank in that my expertise and engagement with this bar has been on cannabis banking. That being said, this hearing today is about cannabis banking. This bill is supposed to be about cannabis banking. And for that reason I think if there is an intent to use the bill to do something else then maybe it is appropriate for another bill.

Senator REED. I think that is great. In fact, I think your reaction is probably the reaction of everyone, saying this is all about cannabis banking, and suddenly we have a provision that would stop a regulator from going to a bank and questioning a relationship with a customer who may be a surrogate of a foreign power that is doing things here we do not like to be doing.

And so I would hope that we could look very carefully at this. I think the trajectory that is designed to provide reforms for cannabis is appropriate. We have a little more work to do. But I think this is definitely something that we can narrow considerably.

And with that, Mr. Chairman, thank you again for your kindness, and I yield.

Chair BROWN. Thank you, Senator Reed.
Senator Scott is recognized.

Senator SCOTT. Thank you, Mr. Chairman.

Ms. Sullivan, thank you for your testimony today. Given your role as the Chief Risk and Compliance Officer at Dama, it seems that you are very familiar with compliance and risk regimes when it comes to safe banking. Can you walk me through, if the SAFE Banking Act were to become law, how the current safe harbor for financial services institutions would work?

Ms. SULLIVAN. Thank you. If the SAFE Banking Act, the way it was written today, was pushed forward, the concern would be is that there would not be steps to ensure that financial services that would be provided to cannabis-related businesses would be legitimate. There would not be proper governance and controls in place, that financial services would have to ensure that they were doing, to include really addressing some of the major things that we focus on, and a lot of the other financial institutions in the industry today focus on, which is legacy cash.

We also know that credit card networks do not allow cannabis transactions today. We know merchant acquirers are establishing fictitious names, such as flower shops, to process these transactions. So money laundering is happening. And really, honestly, it is going to dilute the standards that many in the industry are performing today.

Senator SCOTT. Thank you. One final question for you. In your testimony you discussed requirements to ensure that banks have the appropriate risk controls and processes in place if they were to bank cannabis. Can you give a little more detail on what those requirements would look like? You started to talk about the legacy cash and other issues. I would love for you to continue that conversation.

Ms. SULLIVAN. Absolutely. So with our program and with what our recommendations are, we would like to see that financial institutions really have to have a strong and robust framework. They need to really work with their board to make sure they have board-approved risk limits. Their deposit ratios versus their total deposits need to be within line so they do not have a concentration. Legacy cash, for example, all legacy cash deposits must provide documented evidence of the source and the origination of that ownership, to include any evidentiary documentation for those cannabis transactions.

What is important to note is just because cash gets banked, it does not mean that money laundering is not occurring. If financial institutions are not taking their role and responsibility to know who their customers are, ensure that they understand where the source of funds are coming from, and do the continued due diligence and transaction monitoring that has to be done in this industry, it would be a money launderer's holiday if banks are not going to take this position seriously.

Senator SCOTT. Thank you. Dr. Sabet, you talked about synthetic marijuana and the impact it has on the brain, some of the challenges that we have. I would love to hear a little bit more about that, and in my minute and 47 seconds I am going to ask you a compound question. The second part is can you explain your con-

cerns about the impact of cartel activity in the United States as it relates to safe banking allowing for perhaps more fentanyl to flow through.

Mr. SABET. Yes, absolutely. So what I am concerned with is the active ingredient in marijuana, THC. Marijuana has hundreds of ingredients in it. It is a very complex plant. But we know that THC acts on receptors throughout the brain and the rest of our body that regulate a whole host of activity—coordination, reward, in memory. That is why marijuana can be addictive. In fact, one-in-three Americans who used in the last year, according to all the studies, fall under what we call a cannabis use disorder or addiction.

And so when that THC enters that brain, especially as that brain is developing, you know, 25-, 30-years old—21 is political number. It is not a scientific number when we have age limits of 21. It is really 25 or even 30. And so it has the ability to really affect that person as that brain is growing, as that brain is developing.

So now we have learned how to genetically breed marijuana to increase that THC to levels we could not have imagined 10- or 15-years ago. The fact that so much of the industry is selling these high potency concentrates that can be up to, they claim, 99.9 percent THC shatter, or these waxes, you know, these are products that did not exist before this industry started. It is really interesting. You know, not that what we had before was great either, obviously, with transnational organizations running the whole thing. But this legal industry has innovated in such a way that they have created kid-friendly products. The gummy bears, the candies, the concentrates, it never existed before legalization.

The second part of your question about the underground market, you know, I really do worry about the ability of cartels and transnational criminal groups to take advantage. They are already taking advantage of the system. Illegal marijuana markets have grown in legal States, not shrunken. People might say, well, why is that? We legalized something. Why would we have that? We have that because the demand goes way up. It is normalized, commercialized, it is pushed on social media. That is why I wish Congress would actually recommence an anti-drug media campaign in social media for kids to understand the true facts. Not, you know, “Reefer Madness” and scare tactics, but the true facts about marijuana, because this industry advertises.

And so as the demand goes up, the Government cannot fill that demand. The Government has regulations, taxes, et cetera. The illegal market is very happy to come in much cheaper and not follow those regulations.

In fact, as you know, cartels, they are making money from a diverse set of industries, not just one drug or one thing.

Senator SCOTT. Wrap up.

Mr. SABET. Human trafficking, et cetera, it is all mixed together. So I would be concerned about the cartels.

Senator SCOTT. Thank you.

Chair BROWN. Thank you, Senator Scott.

Dr. Sabet, since I gave you 2 extra minutes at the beginning I would like a yes or no answer on this. Your organization states that removing criminal penalties for possession is a must as part

of a comprehensive marijuana policy. Do you stand by that statement?

Mr. SABET. Absolutely.

Chair BROWN. OK. Thank you. Mr. Oyefeso, thank you for joining us. I want workers in small businesses in my State to be able to have access to financial services. I want small banks and credit unions to provide that in a way that is equitable and affordable. I am worried about large companies and Wall Street firms dominating this industry. We have made that very clear to supporters of this bill.

Do you share that concern? Why is it good for workers and small businesses to have a fair and competitive market?

Mr. OYEFESO. Simple answer, yes, I do share that concern. A competitive market allows wages to grow. If there is heavy consolidation in the industry you will end up with a few companies able to regulate and control the salaries, the wages, and the benefits of all of these workers and the pricing of the products for consumers. So having this bill pass allows more companies to open up and allows workers the ability to negotiate a better wage and benefits package.

Chair BROWN. Thank you. Borrowers, especially first-time home buyers and veterans, use federally backed loans from programs from the VA and FHA that finance their homes. Talk about the barriers of employees that legal cannabis businesses face when they are trying to buy a home. You mentioned that just briefly. Expand that a bit. How does this bill help address those barriers?

Mr. OYEFESO. I will use an example of Miranda Beck, who works in a Starbuds in Maryland, in Baltimore, Maryland. Her and her colleagues get paid in cash, and beyond the risk of being robbed when they are getting paid, they also have to now provide proof of employment. But they are being paid in cash, so they do not have proof of employment. So when you are trying to get a home and/or rent an apartment, whichever it may be, you cannot go to a mortgage lender and say, "Here is my proof of employment. Here is my salary. Here is my W-2," or to a landlord and say, "Here is my proof of employment. Please rent me the apartment."

So they are completely at a disadvantage in moving up the ladder of life just because the industry is legal in the State of Maryland, but it is not federally legal, and the employer is not fully banked. So while there are 700 to 800 banks that do business throughout the country, cannabis is legal in just about every State in the union, and 700 to 800 is minuscule when you are a worker sitting in the heart of Baltimore, in Brooklyn, New York, in Cleveland, Ohio, if you have to travel 10, 12 miles to reach your bank.

Chair BROWN. Thank you. Ms. Packer, you spent 5 years as a cannabis regulator. What were the challenges that the Government faced when it came to banking, and what about small businesses?

Ms. PACKER. Thank you, Chairman Brown. I described a situation earlier where even trying to create small business assistance for our city's Social Equity Program was a challenge. But even things like the collection of taxes and fees and other regulatory responsibilities are extraordinarily complicated by an abnormal banking environment.

I will give you an example of what was happening in the city of Los Angeles. To handle the cash-intensive nature of the cannabis industry, the city of Los Angeles had to have a specific Cannabis Cash Collection Unit at our City Hall. And anyone who wanted to make an appointment over \$1,000 had to do so in person. This was a headache for small businesses, having to come in person to make just regular tax payments, regular fee payments, and for the city of Los Angeles this was not a small issue. In fiscal year 2022, the city of Los Angeles accepted over \$26.3 million in cash.

Chair BROWN. Talk to me about community-based institutions, including MDIs and CDFIs. How are they important to promote fairness in cannabis banking and in the broader industry?

Ms. PACKER. I appreciate that there has been an intention to include CDFIs and MDIs in the 2023 version of SAFE. It is critically important for these particular institutions to be able to have access to the safe harbor. These are institutions that regularly provide financial services to Black and Brown communities. They are specifically serving communities that are designated as socially vulnerable and prone to economic health and safety challenge. And given that they are literally serving the same communities that were targeted by the war on drugs, it is essential for them to receive this safe harbor and to be able to participate in providing services.

Chair BROWN. Thank you.

Senator Daines, of Montana, is recognized.

Senator DAINES. Chairman Brown, thank you. Before I get started I want to recognize Congressman Joyce, a colleague on the House side, has been instrumental in getting this done. I am grateful for his leadership and a big thank you.

I would also like to ask unanimous consent to submit a few statements and letters of support into the record, if I could, Mr. Chairman.

Chair BROWN. Without objection, so ordered.

Senator DAINES. Thank you. I would also like to begin my time by addressing the human factor of this equation. Mr. Oyefeso, I think you are probably as good a witness on this as any, on this particular topic, because in your testimony you touched upon the physical dangers, including being robbed at gunpoint. Cannabis workers are facing danger because they and their employer are forced to operate primarily in cash under the current system.

From what you have heard from your members, is the situation on the ground getting safer or more dangerous for cannabis employees and the public?

Mr. OYEFESO. It is not safer. It is getting more dangerous, because people, as we have heard, more and more people are going to these stores, so criminals now realize there are more and more possibilities of robbing large amounts of cash. So now workers, if your dispensary does not have a security team, you know, people with guns standing there, you have to worry that when you are closing at night are people going to rush in and rob you.

We have had members who, you know, if you are getting paid in cash, if a former worker knows the payday and you are getting paid in cash, you are going home, and we have members who are pharmacists at cannabis dispensaries who make \$68 an hour. So these are good jobs when they are organized, and they can go home

with \$2,000 and worry about, I am holding \$2,000 cash in my pocket, where the rest of us get paid and it is direct deposited into our banks. So there is your weekly take-home that you could lose in a night. There is your life you can lose. You go to work, you have a good job, you want to go home to your family, and because it is not banked you have that risk every night.

Senator DAINES. I mentioned in my own testimony, to think about even the employees of these businesses, when you think about the other businesses that serve these businesses, the tradesmen and women. I mean, if they are going to fix a leaky pipe or fix a wire, that transaction is going to occur in cash. So the subcontractors that might be trying to do some work with these legal businesses are also put at risk. So thank you for your testimony.

I would like to switch gears and touch on the current cannabis landscape across the United States. Over the past decade, 22 States have legalized the medical use of cannabis, which 20 of these States have taken the additional step of legalizing recreational use, and that includes my home State of Montana.

Cannabis use is decriminalized in some form in 47 States and the District of Columbia. While I personally voted against legalizing recreational use—and here is kind of a part of politics—I won my re-election 55 to 45 in Montana, while the ballot initiative passed 57 to 43. I recognize and appreciate the reality that we face, and that reality is a legal patchwork that just does not work for banks, for businesses, or for law enforcement.

Mr. Sabet, has any State that has legalized cannabis, either medicinally or recreationally, taken any steps to recriminalize it?

Mr. SABET. Yes. Actually, in 1990, when Alaska decriminalized marijuana, they recriminalized it soon after because of the negative effects. We have also seen lately States trying to get a handle on THC content and trying to limit that. But with this industry and the lobbyists and the people behind it, it is very difficult to do that. Because like in your State, as you know, Senator, the pro side is outspending the teachers and the parents something like 20 to 1, so it is very difficult to do that.

I will say—

Senator DAINES. You used the example of Alaska. What is the status of—

Mr. SABET. Well, then Alaska, after spending \$5 million, legalized in 2012—

Senator DAINES. I just want to make sure you paint the accurate picture. It is a fact what you stated. But I think we really want to state the truth and the whole picture.

Mr. SABET. Oh yeah, sure.

Senator DAINES. They also then—I mean, maybe we just want to put that in the record as well, please.

Mr. SABET. Yes. So what has happened on the local level, though, I think is very important. The majority of localities in most legal States have outright banned the sales of marijuana. So you have the majority—not all legal States have done that, but the vast majority of legal States, where they voted for it State-wise, at the local community level, when people are asked, “Do you want a marijuana store in your Main Street, or whatever, in your community,” according to the League of Cities and many other sources, we know

that, for example—Ms. Packer would know better about California. It used to be 70-some percent. I do not know what it is now. But the vast majority of these localities have actually voted against that.

Senator DAINES. Mr. Sabet, in your testimony you cite an article from Bloomberg suggesting that cannabis businesses have widespread access to banking services. However, I pointed out in my testimony that only 9 percent of financial institutions offer banking services, and we heard the totality. The article you cite also states that, and I quote, “such estimates may overstate the real number, many say, because they would include institutions that have only temporarily worked with cannabis companies,” end quote.

My question is this. Do you have any data that would suggest that cannabis businesses have easy and widespread access to financial services? Because the story here from both businesses and then financial institutions is quite different.

Chair BROWN. Please be very brief.

Mr. SABET. So the two points of data would be the U.S. Department of Treasury, and I think it is in my statement that talks about it. The second one would be the on-the-record statements of regulatory bodies in States like Colorado that talk about the local banks and the co-ops, et cetera.

Senator DAINES. OK. Thank you.

Chair BROWN. Thank you, Senator Daines.

Senator Cortez Masto, of Nevada, is recognized.

Senator CORTEZ MASTO. Thank you, Mr. Chairman, and thank you and the Ranking Member for having this hearing. It is such an important bill that I hope we have the ability to pass in a bipartisan way.

Let me start with, is it Mr. Oyefeso, and Ms. Packer. The Secure and Fair Enforcement Act, or the SAFE Act, as we are all talking about today, which finally would allow cannabis businesses full access to the U.S. banking center. Right now legitimate cannabis businesses all over Nevada are hurting because they cannot access traditional banking. My office heard from one business owner in Las Vegas who said that the lack of access to banking creates logistical headaches and puts her and her employees at risk. Her business has to deposit large amounts of cash at local banks, often at more than one bank in the same day because of cash deposit limits. This is burdensome and, quite frankly, dangerous.

Last year, after one of those deposit runs, this business owner’s car was broken into, and fearing that whoever had broken into her car now knew from her bank deposit slips that she carried large amounts of cash, her coworkers bought her a taser, and she keeps it by her bed at night to feel safe.

Now this is outrageous. Banks already accept the money that legitimate marijuana businesses pay contractors and security firms, and it is just common sense that they should serve the actual businesses too.

So there has been a lot of support for the SAFE Act, bipartisan support. It passed out of the House of Representatives seven times. Thirty-eight State and territory attorneys general have called for SAFE to pass.

So let me just ask this question. We had nearly \$700 million in total sales last year in Nevada. What are the consequences for owners and employees operating as mostly an all-cash business? And Mr. Oyefeso, let me start with you.

Mr. OYEFESO. The simple answer is death. In an industry that has \$700 million in cash in Nevada, we have members in your State in the cannabis industry. It is a constant fear of if I am depositing money, what happens? If I am going home with cash from my pay period, what happens to me? You have a steady flow of customers. I have been to dispensaries in Nevada. You have a steady flow of customers, whether it is people who live there, coming from different parts, or visitors. And everyone knows you are dealing in cash, so there is a constant worry of what you are carrying, what you are leaving with.

And you also have the problem for delivery workers. In some States, you can deliver cannabis. So now you have an individual who is making deliveries, who everyone knows is carrying cash. And, you know, I am a New Yorker. Delivery drivers always had to worry in the 1980s and 1990s about cash. Now if you are delivering food it is done through one of the apps, but for cannabis it is not. So you worry about I am just doing a run and someone could rob me or hurt me.

Senator CORTEZ MASTO. So Nevada has the second most sales per capita, just behind Colorado, and this is a concern I hear from businesses all the time. Not only are they concerned about their safety, but the concern about their workers, the concern at the end of the day also that a lot of their overhead goes into security, just because they are an all-cash business.

Ms. Packer, what would be the long-term consequences for businesses and workers of not passing the SAFE Act, that we have not talked about already?

Ms. PACKER. Yes. I think what has been articulated by many businesses is that they literally just cannot afford to continue to pay the high fees, to be at risk; and that is part of the reason why the organizations that I work with have been advocating for fair access. It is important that as we move this bill forward that we do not continue to have categories of folks who are going to be dealing in just cash. There is a real opportunity to ensure that we are bringing everyone into the banking system that provides oversight as a regulator. That is critically important.

For the workers, in particular, there is a real opportunity for us to ensure that they are just treated like normal businesses. There is a real concern that we are going to allow stigma to continue in this space as well.

Senator CORTEZ MASTO. I appreciate that. Let me ask this question, and briefly. I only have about 16 seconds left here. Many business owners, parents, and members of local law enforcement have expressed concerns about the proliferation of the gray market. There is no doubt tied to the cost consumers pay for cannabis is a result of the exorbitant fees and unusual expenses businesses have to pay to function, like hiring armored cars, that I talked about. But can you talk to me about the gray market? Can you define that for me?

Ms. PACKER. Yes, and I appreciate you asking me the question because I have had conversations with folks about what we use as the term. I encourage folks not to use the term “black market.” I know we have heard folks use this term before. We do not want to equate “black” with illegal.

But part of the reality is that this increases a safety concern. There are businesses in the city of Los Angeles, for example, particularly I am talking specifically about unlicensed, unregulated businesses, and that is how I would define them. They are outside of the regulatory scope. But they are going to continue to engage in cash. And for some of the businesses that we engage with in the city of Los Angeles is primary law enforcement, you had illegal cannabis businesses that were looking to try and set up and rob legal cannabis businesses.

Senator CORTEZ MASTO. Thank you. I notice my time is up. Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Cortez Masto.

Senator Warren, of Massachusetts, is recognized.

Senator WARREN. Thank you, Mr. Chairman.

So I think the SAFE Banking Act is a long-overdue step to help legal cannabis businesses in Massachusetts and all across the country be able, finally, to open bank accounts, accept credit cards, and access other basic banking services. Businesses need these services to operate safely and successfully, and workers need the protection from safety risks of working in cash-only businesses.

So I look forward to working with my colleagues to pass this bill, but it cannot be the end of our work on marijuana policy. That is because as long as marijuana remains criminalized federally, we are not fully fixing the problem. If people can still get busted for purchasing marijuana, many banks will find it too risky to serve legal cannabis businesses, no matter whether we tell them it is technically OK.

Now I pushed the Administration to use its administrative authority to deschedule marijuana. Like my friend and neighbor, Dr. Sabet, said in his opening testimony, no one should be incarcerated just because they got caught with a joint. The White House has directed HHS and DOJ to review how marijuana is scheduled. That will affect research going forward and what we come to understand about it. But we need to see those agencies act.

Ms. Packer, you have years of experience in the cannabis industry, both as a regulator and as a drug reform advocate. Would fully decriminalizing marijuana at the Federal level help ensure that small businesses get full access to safe, formal financial services?

Ms. PACKER. Thank you, Senator Warren. I appreciate all the work you are doing to push the Administration to take further acts. Yes, it would certainly help. The reality is that even with the safe harbor, many financial institutions are likely to continue to view the industry as risky, due to its Schedule I status. And even if cannabis was rescheduled, for example, to Schedule V, the small businesses and workers that we are talking about today, they would still be criminalized.

So I want to just emphasize this. The only way to eliminate the criminality of small businesses and workers is to completely re-

move cannabis from the Controlled Substances Schedule. We want to deschedule, not reschedule.

Senator WARREN. I hear your point, and I recognize that descheduling not only helps ensure that small cannabis businesses have access to safe, formal financial services, but it also deals with a bigger problem, and that is while the SAFE Banking Act is a critical step on cannabis reform, we risk creating a system in which banks enjoy a safe harbor from prosecution for financing marijuana businesses, while thousands of people remain incarcerated for marijuana activities.

In my view, the best solution is full Federal decriminalization. But we should also make sure that updates to our banking laws take equity into account. For example, when banks consider whether to serve a cannabis business, they consider the red flags that are laid out in the 2014 FinCEN guidance. One of those red flags is whether the business' owner has a drug-related conviction, which could include a conviction for something like marijuana purchase.

So even as we try to move away from penalizing nonviolent marijuana activity, a penalty for marijuana activity is baked into lending decisions. And we know that Black Americans are almost four times more likely than White Americans to be arrested for marijuana possession.

So Ms. Packer, would making it clear that financial institutions should not consider a marijuana criminal record an automatic red flag make our banking system more equitable?

Ms. PACKER. Yes, it absolutely would. The reality is that we are in a situation today, it is no longer 2014, right? Since 2014, we have had 25 States—we are at a point now where we have 25 States that have passed laws to expunge records, provide folks second chances. We are also in a situation where we have 15 States that include people with past cannabis criminal records, affirmatively allow these people to participate. We do not want to sit here and tell States either that their State policies do not matter and that they cannot pick and choose who should be a part of their market.

Senator WARREN. That is actually a very good point. You know, the SAFE Banking Act requires FinCEN to update its guidance when this bill becomes law, and this change should be at the top of their list.

We need a comprehensive, all-of-the-above approach to cannabis reform that includes SAFE banking as well as decriminalization, pardoning and expungement of criminal records and other steps to begin to address decades of harmful and racially discriminatory cannabis laws.

Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Warren.

Senator Fetterman, of Pennsylvania, is recognized.

Senator FETTERMAN. Thank you, Mr. Chairman.

Mr. Sabet, as far as I understand Canada has now made marijuana legal. Is it safe to say that it has not slid into anarchy?

Mr. SABET. It would be safe to say that. In fact, I spend a lot of my time in British Columbia, and so I could say that. It is a beautiful place. But no one predicted it would slide into anarchy. It has just seen some increases in use. It has seen some DUI issues. It has seen the doctors of Ontario and Quebec call for more

awareness on high-potency THC, given emergency room admissions.

Senator FETTERMAN. So in other words, it is OK.

Mr. SABET. Well, that part is not OK. That part is not OK. It has not slid into anarchy. You are right.

Senator FETTERMAN. And then let me just say with respect, you know, so really, I know obviously you oppose legalizing marijuana, and I presume it is because you believe that it is dangerous, and it could result in a lot of deaths. Right?

Mr. SABET. That is one reason.

Senator FETTERMAN. Yes. So how many annual deaths for alcohol use?

Mr. SABET. There are about 120,000 annual deaths from alcohol.

Senator FETTERMAN. One-hundred-twenty thousand. We agree with that. That is actually about right. How many deaths do cigarettes have in America every year?

Mr. SABET. Still about 400-some-thousand. Our legal drugs kill many more people than our illegal ones, partly because they are fueled by a for-profit, addictive industry, that I know, Mr. Chairman, I appreciate your work on this, fighting Big Tobacco for so long. Yes, our legal drugs kill a lot of people because they are advertised and promoted in a system that—

Senator FETTERMAN. So in other words, alcohol and tobacco should be made illegal then.

Mr. SABET. Well, we are stuck with them because of their cultural, you know, where they have been in our—

Senator FETTERMAN. It is addictive and there are a lot of profits on that. And then also, another question is how many people have died of aspirin?

Mr. SABET. A few thousand a year, maybe.

Senator FETTERMAN. Yes. OK, so you were just talking about THC earlier. So many people have overdosed from THC death?

Mr. SABET. Well, overdose—there is a difference between overdose and overdose death. Overdose, probably hundreds of thousands of overdoses, not necessarily resulting in death. Tobacco does not provide an overdose—

Senator FETTERMAN. So the answer is zero.

Mr. SABET. Tobacco is also zero. Yes, Senator. Tobacco is also zero overdose.

Senator FETTERMAN. Zero, and that is my point.

Mr. SABET. But thousands of deaths from—

Senator FETTERMAN. Sir, sir. See, you talked about THC, saying that this is not my grandpa's weed or whatever. But from my standpoint, this is like, do you know what grain alcohol is?

Mr. SABET. Mm-hmm.

Senator FETTERMAN. Yes. Because it is sold in Pennsylvania as alcohol at a State store. And I do know anyone that walks in and is, "Oh, my God, I ended up with grain alcohol instead of this bottle of red wine." You know, people can understand that as well, too, and that seems like it. And I do not use marijuana. You know, it could be made legal tomorrow in Pennsylvania, and I am not going to. And I am not going to use tobacco. And I am just saying, I support the SAFE Act, but if we just made it legal, we do not have

this special safe beer, you know, Act or anything. We just need to make it legal in that.

So what I am saying to you, and I am going to save you the last minute here, is that I just believe it is freedom. I believe it is a freedom issue for people, and I believe that it is making the legality—and I have been given hundreds and hundreds of people pardons because of having their lives ruined by having a B.S. charge. And that is what it is about to me. So you, sir.

Mr. SABET. Thank you, Senator Fetterman. I appreciate the time. I agree with you on pardons and expungement. I agree with you on removing criminal penalties. I wish we could make a distinction between decriminalization and the commercialization and legalization.

Senator FETTERMAN. Honestly, I really am glad to finally get together.

Mr. SABET. No, absolutely. And I also agree with your logic that, you know, we do not have a “SAFE Beer Act”, so let’s have an honest debate. We might disagree at the end of the day, but let’s have an honest debate on the legalization of drugs. Because we are seeing States legalize psychedelics now. There is talk about heroin and cocaine. Are we going to have a “SAFE Psychedelics Act”, a “SAFE Cocaine or Heroin Act”, a “SAFE Fentanyl Act”? I mean, let’s have an honest debate on the merits as opposed to some giveaway for banks. We might disagree, Senator Fetterman, but we can have that honest debate and conversation. So I appreciate that.

I will also say that I think we need to talk—we have talked about the human toll of the industry. We need to talk about the human toll of the use of this superstrength THC. The suicides that we are seeing, the schizophrenia and psychosis we are documenting daily, where scientists are on this. The driving crashes. We work with a woman named Corinne LaMarca in your State of Ohio, Mr. Chairman, whose daughter was killed by someone driving high on marijuana, a 19-year-old daughter. You know, that is a human story too.

And so we should not lock people up. We should not give criminal records. We should not have an incarceration-focused war on drugs. But at the same time I think we are going to this other extreme of acceptance over normalization, and I think people are getting hurt as a result.

Chair BROWN. Thank you, Senator Fetterman.

Senator Smith, of Minnesota.

Senator SMITH. Thank you, Mr. Chair, and thank you, Senator Fetterman, for those questions. I think you are touching on something that is very important, which is kind of the question of freedom.

I would like to draw out another piece here which is how the Federal prohibition on cannabis is a policy that has contributed to mass incarceration and over-policing, that it has not affected all communities the same. It has disproportionately affected Black and Brown communities. So we have a lot of work ahead of us to right those wrongs, and I believe that this includes decriminalizing marijuana and then expunging convictions. But we also have an important role to play in our corner of this work, in this Committee, with the SAFE Banking Act.

So Ms. Packer, let me ask you, the SAFE Banking Act has, in the latest version, explicitly protects community development financial institutions and minority depository institutions. Can you just talk to us about how this could help expand opportunities for communities that have been disproportionately harmed by the war on cannabis?

Ms. PACKER. Thank you, Senator Smith. CDFIs and MDIs disproportionately lend to Black and Brown communities. CDFIs, in particular, are folks who regularly lend to small business, to do agriculture, to do commercial real estate, and these are the exact sectors that the cannabis industry and hemp industry need. So they are serving the undeserved.

Senator SMITH. Yes. Thank you for that. I completely agree. And I am just grateful for the Chair for the timeliness of this hearing and convening this hearing.

Minnesota is on the cusp of legalizing recreational cannabis, and this is an exciting development, opportunity for small businesses and others. And the reality is that cannabis shops in Minnesota will effectively operate in the shadows so long as State and Federal laws are out of sync, right?

So for Mr. Oyefeso, could you talk about the challenges that this presents for workers at cannabis businesses and their employers in States like Minnesota that are moving to legalize. What impact does that have on them?

Mr. OYEFESO. One of the impacts is, as Mr. Sabet brought up, people prescribing to pregnant women. UFCW has created a training program with employers, but we cannot expand it without SAFE. So when you pass SAFE you can expand a training program that allows workers and employers to properly train workers and brings them out of poorly prescribing different potency levels to the wrong person. That is a big part of it, being able to educate workers, but you have to have the funds and the ability to build this in.

Senator SMITH. Right. Thank you. And Ms. Packer, how does this sort of, you know, one foot in each world regulatory environment that you have with States legalizing and then these Federal laws, how does that affect, you know, people who are cannabis consumers?

Ms. PACKER. I think part of it is that it just causes confusion. I think that there is a lot of confusion amongst consumers, and folks are not necessarily always able to tell licensed and regulated businesses from unlicensed businesses. And the same concerns that folks have about, you know, workers and the space consumers are entering, these places as well where cash is on hand. So I think the concern extends to them as well.

Senator SMITH. Mm-hmm. You know, both the Chair and I serve on the Agriculture Committee as well as the Banking and Housing Committee, and in 2018, the farm bill legalized hemp cultivation for commercial use. You know, licensed growers went up, but then they have been coming down. It was seen as a big opportunity in Minnesota and other States around the country, and there are a lot of reasons for that.

But one constant concern I have heard from Minnesota growers has been a lack of access to basic banking. It is tough to get loans

or to access payment processing. So Ms. Packer, have you heard similar concerns about this from farmers, and how can this Committee support hemp growers to help them grow their business and diversify their business?

Ms. PACKER. Thank you. In the city of Los Angeles we were working primarily with folks who were doing indoor cultivation, but the reality is that this is an issue across the supply chain. Whether it is cultivators, manufacturers, distributors, folks who are engaged in retail sales, they are all similarly plagued by a lack of fair access to banking.

Senator SMITH. Thank you. Thanks very much. Thank you, Mr. Chair.

Chair BROWN. Thank you, Senator Smith.

Thanks to the four witnesses that joined us.

Senators who wish to submit questions for the record, those questions are due 1 week from today, Thursday, May 18th. For the witnesses, please, you have 45 days to respond to any questions.

Thank you again. The hearing is adjourned.

[Whereupon, at 11:37 a.m., the hearing was adjourned.]

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

PREPARED STATEMENT OF CHAIR SHERROD BROWN

Thank you to Senators Merkley and Daines for being here to testify and welcome to our other witnesses. And thank you to Ranking Member Scott for working with me on this hearing.

Today the cannabis landscape looks far different than it did even a few short years ago.

Cannabis has been legalized or decriminalized in almost every State. States and localities have established licensing and social equity programs to ensure that small businesses and communities impacted by the war on drugs are part of the growing legal cannabis industry.

Today, we will hear about the challenges that small businesses and workers continue to face, and how we can empower and protect workers, provide stronger consumer and small business protections, and ensure fair and equitable access to financial services—all while making sure that our communities stay safe.

Banking is critical for small cannabis businesses, who already face hurdles getting their business off the ground. Like any business, they need to apply for licenses, raise capital.

But that's hard to do when you don't have a bank account, or if you do, one that might come with lots of fees.

Without full access to the banking and payments system, legal cannabis businesses are forced to operate in the shadows.

They can't access SBA loans, and know that even if they try to apply for a bank loan, they might go through all the costs and effort, only to be denied. So many small businesses rely on friends and family for funding.

They deal with lots of cash, spend precious time trying to find a work-around, or hire expensive third-party service providers that take a hefty cut of their slim profits.

This puts a robbery target on the backs of workers, and can make it harder to combat money laundering.

There are also thousands of workers who can't prove their income to get a mortgage or a car loan, or keep a personal bank account, even though their paychecks come from a business that is perfectly legal in their State.

Many of these workers are represented by unions like the UFCW and the International Brotherhood of Teamsters, which are fighting to make sure that their workers have more power in the workplace, in an industry where their physical safety is often at risk.

The effects of this patchwork system go beyond just the cannabis industry.

Sheet metal and air conditioning contractors build service retail locations and other facilities.

Lawn care and gardening companies, like Scotts Miracle-Gro in Ohio, sell materials and equipment. They want to continue their businesses and serve their customers, and they don't want to worry that it will put their bank accounts at risk.

While small businesses and workers deal with these challenges, the large cannabis companies are the ones dominating the market.

They have ready access to private capital and are taking advantage of their workers with unfair labor practices to maximize profits. I stand by the workers who are actively fighting for higher wages and safer workplaces.

We don't want the cannabis industry to become like Big Tobacco—concentrating industry power in just a few giant players, hurting workers and pushing out thousands of small businesses, which are more likely to be owned by Black and Brown entrepreneurs, women, and veterans.

We want small banks and credit unions, MDIs, and CDFIs to be able to serve small businesses and their workers, and level the playing field in an industry that is increasingly concentrated.

Community banks and credit unions in my State want to serve the legal cannabis industries in their communities, and they want to rest assured that they can continue to bank their existing customers.

Banks and credit unions shouldn't have to pick and choose which services they can offer to customers that happen to earn their income from a cannabis business.

People in the cannabis industry should be able to have the same types of personal, commercial, and mortgage loans that any other customer can have, with the same protections and without additional costs or fees.

And as we all know, the over-criminalization of marijuana has disproportionately hurt communities of color and indigenous communities.

We have a long way to go to right those wrongs. We can start by ensuring that members of these communities not only benefit from, but also lead, the growth of the legal cannabis industry.

MDIs and CDFIs can help reach these communities that are often overlooked—or worse, preyed upon—by other financial institutions. And people with prior marijuana convictions—especially in States where it is now legal—shouldn't be barred from participating in our economy, whether it's renting a home or finding a good-paying job.

We all want safe communities and a safe banking system.

As we all know after the three recent bank failures sparked by a panic-induced run, banks must manage the risks of their business.

And they need to understand that failure to meet stakeholder expectations can have dire consequences for their customers.

We must not weaken regulators' ability to protect consumers and the banking system from these risks.

Financial institutions also play an important role in monitoring our financial system for fraud, money laundering, and other illegal activities.

We need to ensure that workers and small businesses in the cannabis industry can access banking, while maintaining our robust anti-money laundering framework.

I have heard from law enforcement officials who say that expanding banking access to cannabis businesses can help improve public safety, and direct resources towards truly criminal activity.

Cannabis banking is of course just one part of the conversation on marijuana policy.

People shouldn't be thrown in jail for a product that others are legally profiting from. In the past, we have been able to work together on a bipartisan basis to give those with prior convictions a second chance.

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

And if we truly care about public health, we should consider more medical and scientific research on this topic, so that we understand all of the impacts.

There is more work to be done to make sure everyone can participate in the banking system and the legal cannabis economy in a fair, safe, and equitable way. I am glad we are building on the progress we have made over the years, and I look forward to continuing the conversation with our witnesses.

PREPARED STATEMENT OF SENATOR TIM SCOTT

Thank you to both of you for being here with us today—particularly to Senator Daines for your hard work and dedication on this topic for a number of years. As well as acknowledging both Senators Cramer and Lummis for their hard work on this, as well, on such an important topic.

Each one of us on this Committee represents different States with different marijuana laws, and I understand that some of us may be in very different places when it comes to the legality of marijuana. In my home State of South Carolina, marijuana is largely still illegal, and I, myself, have concerns with it.

And at the Federal level, marijuana is considered a Schedule I drug, which means that the possession, distribution, or sale of marijuana and other marijuana-derived products is illegal and that proceeds from marijuana-related businesses are subject to U.S. anti-money laundering laws.

The Department of Justice and national law enforcement groups have expressed concerns that [the] SAFE Banking Act could create loopholes in our money-laundering laws making it harder to catch criminals that traffic weapons, fentanyl, and even people—much harder, which is a consequence that we must eliminate if this bill is to become law.

However, there are some States that have legalized marijuana, and now, we have legal State-based marijuana-related businesses throughout the country that depend on a relationship with their bank or credit union. And as a former small business owner, I understand and appreciate the importance of having that relationship with your financial institution. A banking relationship is crucial to providing safety and stability for a company—both employees and the customers it serves.

That is why I am looking forward to hearing from our second panel of witnesses on how these businesses operate, the complications faced by these businesses, and how the safe harbor provided in the SAFE Banking Act would work in practice or if more is needed to ensure compliance.

Finally, if we are going to have a conversation about SAFE Banking and banking a product that is illegal at the Federal level, then we must discuss the importance of banking all industries. In the past few years, we have seen certain financial institutions cave to political pressures and take actions to “de-bank” certain legal indus-

tries, such as firearms and oil and gas entities, due to the wild progressive nature of the radical Left and their agenda. These same institutions that are asking us to take a second look at the SAFE Banking Act are frankly standing in the way of banking legal entities today. I find that disappointing and quite perplexing. Congress has a responsibility to ensure that all legal industries have access to financial institutions and services. I understand that SAFE Banking, as drafted, currently contains a provision to ensure that legal industries are banked. De-banking legal industries is inappropriate, and I look forward to hearing more about that part of the legislation as we continue the discussion today. I hope today's hearing lends itself to a thoughtful debate on this issue.

PREPARED STATEMENT OF SENATOR JEFF MERKLEY

Chairman Brown, Ranking Member Scott, Members of the Committee, thank you for holding this critical hearing today on our SAFE Banking Act. And thank you for the invitation to come and testify on an effort I began over 8 years ago and have partnered with bipartisan colleagues, including Senators Gardner and now Daines, to advance. And, of course, I'd like to thank Chairman Brown for his partnership on this legislation and for months of collaboration to get us here today.

At this moment, more than half of all States across our Nation have some form of legalized cannabis—37 States, plus DC have it for medicinal purposes while 21 have made it legal for recreational use.

Today, legalized cannabis is an industry that supports more than 428,000 jobs¹ and accounted for over \$25 billion in sales in 2021. In my home State of Oregon, we had nearly \$1 billion in sales last year, with the taxes generated from those sales going to help fund our schools, mental health and substance abuse treatment programs, as well as law enforcement and city and county needs.

But our Federal law has not kept pace with Americans' changing attitudes towards cannabis, nor with the changing laws at the State and local level. That refusal to change denied these legitimate businesses the ability to access the same basic necessities as every other business—whether it's access to banking and credit card accounts, payroll services and more—because depository institutions and credit unions, worried they may be threatened with criminal prosecution under Federal law, have largely refused to work with this industry.

This has forced nearly three-quarters of legitimate cannabis businesses to operate entirely in cash. The few financial institutions that do work with cannabis businesses charge hefty fees because of the legal risk and added layers of compliance. And this cash-only requirement trickles down far beyond just the cannabis retailers and growers. It effects the subcontractors who can only be paid in cash; the fertilizer providers and the seed sellers—practically any kind of small business associated in any way with this industry—all of whom can only carry out transactions in cash. It effects the employees of these legal cannabis businesses who can't be paid by check or direct deposit, meaning they have to walk around with wallets full of cash worried that they'll be a target for criminals on payday.

Forcing legal business to operate in an entirely cash economy is terrible for accountability, but great for crime as it has left these businesses, and all those connected to them, open to violent crime, money laundering, theft, tax fraud and more.

There's no national database to compile the statistics of incidents connected to these businesses. But over the last 12 months, we've seen at least 129 robberies of Oregon cannabis businesses.² An unofficial tracker in the greater Seattle area showed that robberies of Washington cannabis retailers reached a 10-year high in 2022. A worker at a San Francisco dispensary was kidnapped in an armed robbery where \$30,000 in cash was stolen back in February.³ If these businesses had the ability to accept debit cards and credit cards, and use the same systems to pay their taxes and payrolls as every other business uses in this day of technology it is indisputable the number of violent robberies would be far smaller.

The Secure and Fair Enforcement Banking Act—or SAFE Banking Act—that Senator Daines and I have introduced and led together—would ensure that these legitimate businesses, operating in compliance with State cannabis laws in those States where citizens have said they want legal and medical cannabis, will have access to all of the same financial services as every other business. And those financial insti-

¹ <https://flowhub.com/cannabis-industry-statistics#>

² <https://www.oregon.gov/olcc/marijuana/Pages/marijuana-thefts.aspx>

³ <https://sfstandard.com/criminal-justice/armed-kidnappers-target-cannabis-shop-run-by-anti-violence-leader/>

tutions will be protected against prosecution or asset forfeiture primarily for providing services to a State-sanctioned cannabis-related business.

To be clear, banks will not be forced to provide services to these businesses, it simply creates a safe space for both the financial institutions and the legal cannabis industry.

It explicitly extends the safe harbor to Community Development Financial Institutions (CDFI) and Minority Depository Institutions (MDI)—who serve underserved communities facing challenges in accessing capital and provide affordable access to financial services—so they can also serve cannabis businesses.

And, after much consultation with colleagues and outside experts, it now includes provisions to address both concerns around equity and issues around law enforcement and money laundering raised in a memo released last year by the Department of Justice.

As a result, we have a piece of legislation that enjoys strong bipartisan, bicameral support from people who believe the time has come to change our approach to these industries and how they are able to operate.

It is beyond unacceptable that, with more than half the country embracing some form of legalized cannabis, we would continue to allow this dangerous and untenable situation of forcing legitimate business to operate entirely in cash here in the 21st Century. I'd like to submit into the record letters from current Oregon cannabis retailers sharing their own stories of the challenges and dangers facing them in this all-cash environment. Each of these stories represents thousands more just like them all across the country.

So Mr. Chairman, Mr. Ranking Member, and all the Members of this Committee, I urge you to work quickly to consider and pass this bill and make our communities safer by ensuring equal access to the financial system for the cannabis industry. Thank you.

PREPARED STATEMENT OF SENATOR STEVE DAINES

Thank you, Mr. Chairman, and thank you to our witnesses for being here today. I am very pleased that the Banking Committee is holding a hearing on this important topic. Across my home State of Montana and in communities across the country, legal businesses are facing a public safety crisis. These businesses, often forced to operate in all cash, are appealing targets for robbers. In Washington State for instance, 2022 saw at least 100 armed robberies at cannabis retail stores, the most in the past 10 years. Tragically, several of these incidents ended in bloodshed.

The SAFE Banking Act would help address a major cause of this increase in violent crime by providing a safe harbor for depository institutions and service providers to transact with State-sanctioned marijuana businesses. In short, this bill would make it much easier for businesses to put their cash into banks.

Some of the witnesses today will say that there are hundreds of banks and credit unions providing financial services to State-sanctioned marijuana businesses, and that SAFE Banking is not needed. However, the truth is that only approximately 9 percent of the financial institutions in America have provided services to any marijuana-related businesses, meaning that those who are providing financial services face limited competition and charge substantially more to bank these clients than other industries, resulting in services being prohibitively expensive for many businesses.

This legislation would also help Federal and State law enforcement distinguish between legal and illegal marijuana businesses. Opponents of this bill will say that SAFE Banking will help to grow the \$25 billion market for marijuana in the United States. However, the real size of the market is \$100 billion, of which roughly 75 percent is illicit cannabis production.

Allowing cash from legal, regulated businesses to enter the banking system will help law enforcement more easily distinguish legitimate actors and focus more of their resources on prosecuting the illicit market, and in so doing, may actually shrink the size of the overall industry and reduce consumption in the United States. If nothing else, SAFE Banking will greatly increase tax compliance and tax revenue for States.

This legislation is also widely supported by banks, credit unions, the insurance industry, and many other service providers who at present do not have clear guidelines for how they can safely and legally transact with State-sanctioned marijuana businesses. Roofers, plumbers, electricians, and other similar service businesses are technically at risk of engaging in illegal money laundering simply for putting on a few shingles, fixing a leaky pipe, or safely wiring a building. In States where these

are legally operating businesses, do opponents of this bill really believe hard-working tradesmen and women should be put in this impossible position?

A bipartisan coalition of 38 State and territorial attorneys general came out in support of this bill in the past, and we have strengthened it considerably based on feedback from the Department of Justice.

Nine sheriffs across Montana have publicly voiced support for this bill. To quote Lincoln County Sheriff Darren Short, “. . . It concerns me that businesses have such a large amount of cash on hand, which is clearly a liability and a public safety issue. I also believe that any all-cash business is going to be rife with fraud, so it’s an accounting problem as I see it too. As far as marijuana legalization goes, the voters of Montana made that decision and now it’s our role to make it safe and make it work. I’m happy to support the SAFE Banking Act.”

This bill does not legalize marijuana and I do not support Federal legalization of marijuana. However, the people in States across this country have spoken, and it is abundantly clear that the status quo is not only untenable, it is dangerous. The SAFE Banking Act is a commonsense bill that can and should pass, and would immediately improve the public safety threats we are seeing on the ground. I ask my colleagues to look at this issue with open eyes and I look forward to hearing their input today.

PREPARED STATEMENT OF ADEMOLA OYEFESO

INTERNATIONAL VICE PRESIDENT AND DIRECTOR OF LEGISLATIVE AND POLITICAL ACTION DEPARTMENT, UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION (UFCW)

MAY 11, 2023

Good morning, Chair Brown, Ranking Member Scott, and Members of the Committee. Thank you for the opportunity to testify today. I am Ademola Oyefeso with the United Food and Commercial Workers International Union (UFCW). UFCW represents over 1.3 million hard-working men and women who work in highly regulated industries including over 10,000 workers in the cannabis industry. Our cannabis members can be found in a dozen States everywhere from seed to sale. As the leading union in cannabis, UFCW is committed to shaping this industry into one that provides safe, well-paid, and family-sustaining jobs for all its workers.

Cannabis Banking Is a Worker Issue

All jobs have challenges, but few industries face the unique challenge of a Federal prohibition on access to legal banking. Without access to banks, cannabis businesses have little choice but to resort to cash for all parts of their business. Customers pay in cash, workers are paid in cash, and large amounts of cash must be securely stored and transported. A cannabis worker in Oregon told us about a friend who also works in retail cannabis and had to use his own car to carry upwards of \$40,000 cash with no protection or security. The cash-heavy nature of cannabis retail creates safety and financial problems for businesses, customers, workers, and the communities they serve.

The majority of people employed in the cannabis industry are workers, not owners, and lack of banking has become a real issue for this growing workforce. In order for workers in the legal cannabis industry to have the same opportunities as all other workers, Congress must directly address the cannabis banking challenge.

Cash Dominated Industry Puts Workers at Financial Risk

Because of cannabis’ Schedule I status under Federal law, banks, payroll services, and credit card companies are effectively prohibited from providing traditional financial services to cannabis businesses. This includes holding deposits and credit card processing of sales. Consequently, nearly all cannabis retailers and delivery services must operate entirely on a cash-only basis. Without access to a federally insured bank, cannabis employers must find alternative arrangements to pay their workers, which generally means paying them with cash. There are a few banks that are willing to provide their services to cannabis employers, most do not, which leaves workers struggling to find access to personal banking services. As a result, most cannabis workers lack traditional proof of employment like a paystub.

Without a bank account that will accept their paycheck, cannabis workers struggle in purchasing homes and must find alternatives to traditional banking to do so. This includes finding a cosigner or coborrower, paying in cash, or finding alternative credit unions. However, none of these alternatives are a guarantee, and workers often find themselves having to pay higher rates due to their work in a fully legal profession in their State.

Imagine this scenario: a cannabis worker is filling out an online apartment rental application and they get to the section for proof of income with a list of applicable documents to be attached. They work for a perfectly legal business in their State but get paid in cash and simply cannot proceed any further on the form because they have no proof of employment.

The lack of banking makes it difficult to get personal loans for homes and cars—even with high credit scores. In fact, the Federal Housing Authority's (FHA) loan program explicitly denies loans for workers in this industry for this reason.

Ashley Batista, a member of UFCW Local 1776KS and a worker at Jushi, a cannabis grow and processing facility in Scranton, Pennsylvania, notes the challenges and benefits of banking for her and her coworkers.

I've watched several coworkers who saved up every nickel and dime for a downpayment on a home just to be denied a home loan due to the legality of their profession. And because cannabis is still illegal at the Federal level, many cannabis workers are unable to provide traditional sources of proof of income, such as tax returns. This can make it challenging for us to qualify for home loans. Digital transactions through traditional banks [would] ensure timely and secure payment processing for both cannabis workers and the patients. This can help reduce the risk of payment risks such as robberies and can also eliminate the need for carrying large amounts of cash. Many of us cannabis workers may face negative stereotyping and discrimination, which can impact our credit scores. Having the support of traditional banks would help move away from the stigma on cannabis and give us the opportunity to qualify for home loans. This can help improve financial stability and allow us as workers to plan for the future.

In addition, it is unclear if payroll benefits such as Social Security, disability, unemployment insurance, Medicare, and Medicaid are being properly deducted when you do not have access to a conventional payroll service.

When cannabis employers gain access to conventional banking services, their workers get the economic security of a steady paycheck, as well as the peace of mind knowing their payroll taxes and benefits are being properly funded.

Cash Puts Workers in Physical Danger

Cannabis businesses are forced to have large amounts of cash on hand, putting targets on the backs of workers and customers alike. We have seen several instances across the country where cannabis dispensaries experienced violent robberies. Ms. Batista said, "Most dispensaries are still cash only so that not only puts the patients at risk who are walking in with cash to purchase but also the dispensary workers who are at the location with large amounts of cash behind the register. With these MSOs cutting costs this affects the amount of security that is implemented at these locations. Many employers have cut their security teams entirely and solely rely on the workers to watch surveillance cameras. This is a huge safety concern to the workers because dispensaries are burglarized and robbed at roughly the same rate as other cash intensive businesses."

Miranda Beck, a cannabis worker at Starbuds in Baltimore, Maryland, told us a story of a security guard and a worker who were robbed of cash and cannabis product at gunpoint. She said, "It's well known that there is a lot of cash inside dispensaries because dispensaries can't accept credit cards. At Starbuds we were also paid in cash—each week we would have to go in (even on our days off, which was hard for some people without their own cars) to collect an envelope with our wages. They took taxes out, but we were paid in cash—so were the vendors. I worried about safety at work every day—not just for myself and my coworkers, but our patients. Some patients were robbed in the parking lot when they were coming in to buy their medicine."

One local leader in California notes, "The lack of regulation and security measures in the cannabis industry also puts delivery drivers at risk, as they may not have access to proper training or protective equipment. Without banking, our cannabis delivery driver members carry large amounts of cash and valuable products, making them a prime target for robbery and assault."

Cannabis workers, like every other business venture, deserve the same right to work in safe conditions.

Cannabis Banking Is an Equity Issue

Equity is an empty and hollow phrase unless it is made real and meaningful to the majority of working people living in those communities that were harmed by the war on drugs. Most of the discussion around equity in the cannabis industry centers upon the ownership of businesses with emphasis primarily placed on whether

members of communities of color will be positioned for generational wealth. This misses the point for workers. The greatest benefit of cannabis legalization will NOT come from creating a handful of successful, wealthy business owners of color, but from fostering a pipeline of good paying jobs throughout the cannabis industry that are widely available to persons from impacted communities. And equity cannot be achieved as long as we are barring workers from traditional banking. By denying these services to workers, we have created a barrier to entry during the infancy of this lucrative industry for those who did not and still do not have the means to overcome these personal financial obstacles.

States Are Leading the Way

States have been leading the way in passing legislation and regulations that ensure a safe, legal, and thriving cannabis industry. In Washington State, the State government worked with local credit unions and small banks to encourage them to accept business from dispensaries. UFCW members in Washington have said that they like the State cannabis laws because they provide payroll stability.

A regular paycheck goes hand-in-hand with good wages, quality affordable care, and a secure retirement, all things central to what UFCW negotiates for its members and that come with a good union contract.

Even when States do the right thing it is not enough, for even if a worker DOES have a paystub, it is still illegal for financial institutions to consider income earned in a CRB when considering offering services like auto and home loans.

Shaping the Cannabis Industry To Be Good for Workers

The emerging cannabis industry presents an unparalleled opportunity for Government to shape an industry from the ground up. There are many potential paths for cannabis but not all paths benefit the workers in the industry. A 2021 Economic Policy Institute report analyzed a high-road and low-road scenario for the future of the cannabis industry.¹ Under a low-road scenario, cannabis workers are subject to the same harmful practices inflicted on workers in similar agriculture settings: low wages, few workplace benefits, unprotected statuses as contract workers, and erratic scheduling. Under the high-road scenario, unionization ensures that cannabis jobs are good jobs. Cannabis workers in the high-road scenario could make an estimated \$2,810 to \$8,690 more per year than under the low-road scenario. Access to banking is part of a high-road scenario for cannabis workers.

Many proposals for Federal legalization have focused on taxes, licensing, plant size, THC levels, and sometimes equity in ownership—and we applaud many of these efforts. Policymakers, however, have failed to include measures protecting cannabis workers—and SAFE Banking will help ensure that the rank-and-file employees share equitably in the growth of the industry, with good-paying, safe, family- and community-sustaining jobs. A paycheck is a necessary step towards making cannabis jobs, good jobs.

Congress Should Support Safe, Legal Banking for Cannabis Workers

UFCW cannabis workers have said that access to traditional banks and payroll services can help significantly improve their lives by increasing financial stability, providing more and convenient secure payment processing which leads to safe working conditions and benefits.

Cannabis workers do not deserve to be treated as criminals and should not have to struggle with financial and legal ambiguity while on the job. On behalf of all the workers in the cannabis industry, we urge Congress to give the same access to the financial systems and Federal benefits that all other American workers already enjoy.

Thank you for the opportunity to testify and I would be happy to answer your questions.

PREPARED STATEMENT OF KEVIN A. SABET

PRESIDENT AND CEO, SMART APPROACHES TO MARIJUANA, AND FELLOW,
YALE UNIVERSITY

MAY 11, 2023

Chairman Brown, Ranking Member Scott, Members of the Committee, thank you for inviting me to testify before you today. My name is Kevin Sabet, and I am the President and CEO of Smart Approaches to Marijuana, a nonpartisan, nonprofit organization dedicated to promoting a health-first approach to drug policy. I served

¹ <https://www.epi.org/publication/ensuring-the-high-road-in-cannabis-jobs/>

in three White House drug policy offices, for both Democrats and Republicans, most recently for President Obama from 2009 to 2011. In 2013, Representative Patrick Kennedy and I founded SAM, along with top scientists from around the country. SAM believes no one should be incarcerated just because they got caught with a joint, but we also believe that we should not create a new addiction-for-profit industry in the model of Big Tobacco. SAM partners with a wide variety of like-minded organizations, including major medical societies, treatment and recovery advocates, law enforcement organizations, the NAACP, AAA, Parent-Teacher Associations, and drug prevention groups to advocate for a better, safer, more equitable approach to drug policy.

Overview

There are three main problems with passing the so-called SAFE Banking Act:

1. Today's marijuana is dangerous, and this bill would open the marijuana industry to major institutional investors who will create even more hazardous products.
2. This bill would open the U.S. financial system to activity from transnational criminal organizations who intend to harm Americans.
3. It purports to fix a fake problem. Today's marijuana businesses are not dealing primarily with cash; there are hundreds of banks working with pot businesses, as outlined, for example, in a recent Bloomberg News piece entitled "Cannabis Banking Is Booming Despite Federal Uncertainty".¹

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

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

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

For expert testimony on the purpose of the SAFE Banking Act, I refer you to former Speaker John Boehner's marijuana investing seminar,² in which you find these statements, "I was on the board of a major tobacco company, Reynolds. You think Big Tobacco is staying on the sidelines? I've talked to these guys, they are not going to sit this one out. And they have the dollars to acquire whoever they want" His seminar partner said, "With traditional investments, only 17½ percent of the money comes from little fish like you and me. The other 82½ percent is from the big players, the major investment firms, hedge funds, pension funds, established corporations. Banking restrictions are preventing almost all of those investment firms and funds from diving headfirst into cannabis." Boehner continued, "Well, they're dying to get in. I'm helping some of these bigger fish get ready to invest. There are hundreds of billions of dollars sitting on the sidelines".

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

Moreover, despite assurances to the contrary, the marijuana industry has little interest in advancing racial equity. Following more than a decade of commercialization, only 2 percent of business owners in the industry are Black. We have also seen how the industry targets vulnerable communities, including low-income communities and communities of color. The industry is disproportionately concentrating dispensaries in these communities, which results in the disproportionate concentration of marijuana's health-related harms and the continuation of preexisting disparities. Legalization and commercialization will continue to fail to live up to their lofty goals of achieving racial equity.

¹ See <https://www.bloomberg.com/news/newsletters/2022-01-18/marijuana-banking-is-moving-forward-despite-federal-uncertainty>

² <https://www.youtube.com/watch?v=CZXGiRcXLJo>

The Influx of Potent Products Into the Market

It's also important that we not deal with this question in the abstract. When you see marijuana on TV, you see fields or warehouses of what many assume is a harmless plant. They make it look innocuous. What they don't show you are the concentrates and extraction systems, because industrial-scale extraction looks like something straight out of the television show *Breaking Bad*. Yet, concentrates are what they are heavily promoting on social media. Marijuana is not just a plant anymore. It has been highly processed into something that cannot be found in nature and has a devastating impact on the brain in terms of addiction and mental health. One kind of marijuana concentrate, called "shatter," from Acreage Holdings, is from former Speaker Boehner's new gig. It has marijuana strains with names like "Thin Mint Girl Scout Cookies".

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

For evidence of the adverse effects of these products, one can look at our 10-year experience in the United States with the legalization, commercialization, and normalization of marijuana. According to the National Survey on Drug Use and Health, there were 52.45 million past-year marijuana users 12 or older in 2021, compared to 31.53 million in 2012 and 25.76 million in 2002. The rate of past-month use, a measure indicative of more frequent use, has grown at an even more concerning rate: there were 14.58 million in 2002, 18.86 million in 2012, and 36.36 million in 2021. The rate of daily or almost daily use has more than quadrupled, increasing from 3.13 million in 2002 to 5.35 million in 2012 and 13.25 million in 2021. For context, there were 12.58 million daily users of alcohol in 2021. More people are using marijuana, and they are using it more heavily.

Similarly, the rate of marijuana use disorder, also known as addiction, has been trending upward. In 2002, 4.29 million Americans 12 or older had a marijuana use disorder, compared to 4.42 million in 2018 and 4.84 million in 2019, the last year the DSM-IV definition was used. Following the transition to DSM-V, 14.21 million were estimated to have marijuana use disorder in 2020 and 16.27 million were estimated to have it in 2021. More Americans are getting addicted to marijuana.

Alongside increases in the rates of use have been increases in the adverse effects related to use. There were 804,285 marijuana-related emergency department visits in 2021, according to the Drug Abuse Warning Network. Of concern, more than 72,000 involved children younger than the age of 18. Black individuals accounted for more than 195,000, or 24.27 percent, indicating that the adverse effects of use are disproportionately harming communities of color.

In 2021, according to the National Poison Data Center, there were 7,692 calls to poison control centers about marijuana-infused edibles, 7,625 about dried marijuana, 1,138 about concentrated extracts of marijuana, and 1,014 about synthetic marijuana, among other forms. Regarding single exposures involving edibles, for example, approximately 43 percent of calls, or nearly 3,000, were for children 5 or younger, and approximately 18 percent, or nearly 1,300, were for children between the ages of 6 and 12. Irresponsible adults are leaving their marijuana out around the house, and it is having tragic consequences for their children, who unknowingly eat it and find themselves needing to be rushed to the hospital.

In fact, 1 in 3 users are estimated to have a marijuana use disorder. Daily users of marijuana above 10 percent THC are nearly five times more likely to develop psychosis than non-users of marijuana. Users of high-potency marijuana are four times more likely than users of low-potency products to become addicted to marijuana. The National Institute on Drug Abuse states, "The risks of physical dependence and addiction increase with exposure to high concentrations of THC, and higher doses of THC are more likely to produce anxiety, agitation, paranoia, and psychosis." Just last week, a study came out about the link between marijuana use disorder and schizophrenia, finding that as many as 30 percent of cases of schizophrenia among males aged 21–30 could have been prevented if we had averted marijuana use disorder.

So, that is the best-case scenario, if everything goes according to plan: more money, more customers, more profit, more destruction.

The Potential Increase of Cartel Activity

But there is a much darker possibility, and it doesn't require a stretch of the imagination because it is already happening. This is concern number two. International cartels have infiltrated legalized States and have used the cover of legalization to conduct massive grow operations, often in upscale neighborhoods.³ The SAFE Banking Act provides a scalable new avenue for these cartels to infiltrate the banking system in a much more systematic way.

For example, I refer you to a letter from 2023 from a bipartisan group of former Administrators of the Drug Enforcement Administration and Directors of the White House Office of National Drug Control Policy who describe a threat that parallels the multibillion-dollar Black Market Peso Exchange.

To quote from the letter:

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

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

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

This letter helps explain why eliminating cash will never stop marijuana dispensaries from being targeted for robbery: in the majority of cases, the burglars are there to steal marijuana, not cash. The marijuana is more easily accessed and is extremely valuable in its own right. A marijuana store is more akin to a jewelry store than a convenience store. A recent illustration comes from thieves who backed a pickup truck into a Michigan pot shop, stole all of the marijuana, and then left. They came back 20 minutes later to steal the ATM as an afterthought.⁴ Moreover, in December 2022, thieves in Los Angeles stole "hundreds of pounds of marijuana" from a dispensary. And in March 2023, criminals in Santa Cruz stole "half-a-million dollars worth" of marijuana.

This leads us to reason three—the fake excuse to support this bill. It is built around a lie that these businesses mainly deal only with cash. In fact, the U.S. Department of Treasury's Financial Crimes Enforcement Network reported that nearly 800 banks worked with marijuana businesses in the fourth quarter of 2022, up from 54 in the first quarter of 2014. Our own investigation revealed that many marijuana dispensaries accept credit and debit cards as payment, debunking the myth that they are forced to operate as cash-only businesses.

More broadly, supporters of legalization assured the general public that this policy experiment would result in the displacement of the illicit market—consumers would purchase from dispensaries, not dealers on the corner, they argued. However, as we have seen in States across the country, the opposite has occurred. The expansion of the illicit market has coincided with the legalization of marijuana, to the detriment of public health and safety.

According to a September 2022 report from *Leafly*, a pro-marijuana publication, 80 percent of marijuana sales in New Jersey continue to occur in the illicit market. In Michigan, they estimated that 60 percent of sales occur in the illicit market. And in California and Illinois, it is 55 percent. As we have recently seen in New York, particularly in New York City, legalization has given illicit operators cover to open unregistered, unlicensed dispensaries—1,400 illicit shops have popped up in New York City alone. Evidently, legalization has failed to eliminate the black market and, in some regards, has exacerbated it. The SAFE Banking Act would add fuel to the fire by allowing illicit actors to launder and deposit their illicit proceeds.

The U.S. Department of State's International Narcotics Control Strategy Report mentioned, "U.S. consumer demand for illicit marijuana has increased following marijuana regulation in several U.S. States, due to higher costs for legal marijuana and reduced illicit domestic production." Additionally, the DEA's most recent National Drug Threat Assessment stated, "some marijuana produced by State-licensed

³ <https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>; <https://www.pbs.org/newshour/show/how-colorados-marijuana-legalization-strengthened-the-drugs-black-market>

⁴ <http://www.fox2detroit.com/news/local-news/thieves-crash-truck-into-detroit-marijuana-dispensary-steal-pot-atm>

growers is diverted and sold illicitly rather than through State-licensed retailers,” suggesting that legalization often fuels the black market rather than replaces it.

What This Bill Is Not About

Cannabidiol (CBD) and hemp were federally descheduled through the 2018 Farm Bill, and hemp growers have full access to banking services. FDA-approved CBD products have been demonstrated through clinical trials to have a medicinal benefit for certain childhood seizures.

By contrast, marijuana producers are growing and manufacturing incredibly high-potency products that are orders of magnitude stronger than anything available in the Woodstock days. What we think of as marijuana from those days was only 1–3 percent THC and contained a relatively high proportion of CBD, which acted as a neuroprotective agent. Today’s marijuana concentrates can have up to 95 percent THC and no CBD. Between 1995 and 2021, the average potency of marijuana increased from 3.95 percent to 15.34 percent THC, while the percentage of CBD has remained below 0.5 percent. The average potency of vapes and concentrates has increased at a similar rate.

Nora Volkow, the director of NIDA, testified, “The increasing availability and potency of cannabis along with the proliferation of new cannabis products and methods for consuming them raise serious public health concerns,” adding “the risks of physical dependence, addiction, and other negative consequences increase with frequent use and exposure to high concentrations of THC.” And the Colorado Department of Public Health & Environment concluded, “it is clear that use of products with high concentrations of THC are associated with higher rates of psychiatric disorders, such as schizophrenia, psychosis, and generalized anxiety disorder.”

What do you think is driving the increase in the potency of marijuana? The profit-driven marijuana industry. By getting more individuals addicted to marijuana, they can convert nonusers and occasional users into lifelong customers. Drawing on the previously cited rates of use and marijuana use disorder across the country, we are seeing this strategy play out with tragic consequences. What’s more, though the American Medical Association has called for the potency of marijuana to be limited—only a few States have adopted sensible potency caps—the industry continues to lobby fiercely against these regulations. The marijuana industry will continue to produce, promote, and sell ever-stronger products, with little to no regard for public health and safety.

We often hear that supposedly “47 States have legalized some form of cannabis” and we have to do something to accommodate those States. First of all, many of those States only created programs for compassionate distribution of non-intoxicating CBD, which was also federally legalized when produced from hemp in the 2018 Farm Bill. It is disingenuous to lump in those States when they now have a pathway to full compliance with Federal law. I disagree that we should be fully legalizing and commercializing high-potency marijuana, but if the other witnesses want to do it, they should follow the path of the Farm Bill and have that debate.

Other States have more cautious medical marijuana programs, not allowing it to be smoked, and could conduct research programs that could be converted into legitimate FDA clinical trials with early access programs for suffering people. There is a right way to research and prescribe medicines, and that path runs through the FDA approval process.

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

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

Indeed, the voters in Arkansas, North Dakota, South Dakota, and Oklahoma recently rejected ballot measures to legalize and commercialize recreational marijuana. These outcomes suggest that support for legalization was initially overestimated and that the public is becoming increasingly aware of the unintended consequences associated with this incautious policy.

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

Whose Problem Are We Solving?

Today's modern marijuana industry is structured around catering to heavy users. Daily and near daily users consume 87 percent of the marijuana in the State of Colorado.⁶ If you want to be successful in the marijuana business, that's who you have to sell to, and those users have built up a high tolerance and high dependence. Marijuana businesses must meet the demand they have created if they want to stay in business and not lose their customers to competitors. If they don't aggressively market the highest potency products available, someone else will and they will lose market share. Therefore, the business model becomes the highest potency for the cheapest price, and no State has successfully implemented a potency cap. Advancing a business model of creating new instances of substance use disorder during an addiction crisis is grossly irresponsible as a matter of public policy. Notably, according to the 2021 National Survey on Drug Use and Health, among past-month users, there were about five times as many daily users of marijuana as alcohol.

The Addiction Crisis

The fundamental question before us today is whether we should promote and normalize drug use during an overdose and addiction crisis or discourage it and help people seek treatment and achieve recovery. By skipping ahead to a technicality over banking rules, the profit-driven marijuana industry is hoping to gain many of the benefits of Federal legalization while averting a debate over the public health effects associated with this policy. But make no mistake, a policy change around banking would have massive public health and safety ramifications, so we are shirking our duties if we do not consider the full question. The so-called SAFE Banking Act—which should be called the Addiction Banking Act—will allow the expansion of an industry pushing new, exponentially more powerful derivatives of marijuana before any of its health or other societal impacts are fully understood.

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

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

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

We can see where this is leading in our neighbor to the north, where Altria, formerly Philip Morris, the manufacturer of Marlboro cigarettes, has made a multibillion-dollar investment into the marijuana industry, paired with an even bigger investment in vaping giant Juul. These investments will have business synergy, as the latest data shows a 63 percent increase in youth vaping of marijuana in Juul-

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

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

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

like devices.⁹ It took us over 100 years to reverse the public health impacts of the tobacco industry, who continually cast doubt on public health advocates with industry-funded bunk science. We have a chance today not to repeat those mistakes.

I appreciate the opportunity to appear before this Committee and thank the Committee in advance for thinking about our Nation's youth as you craft drug laws. I look forward to answering any questions you may have.

PREPARED STATEMENT OF MICHELLE SULLIVAN
CHIEF RISK AND COMPLIANCE OFFICER, DAMA FINANCIAL

MAY 11, 2023

Chairman Brown, Ranking Member Scott, and the esteemed Members of the Committee, my name is Michelle Sullivan, and I am the Chief Risk and Compliance Officer for Dama Financial. I am honored to testify before this Committee to share my experiences and lessons learned in cannabis banking as well as my opinion on the SAFE Banking Act, S. 1323. I have spent my career in banking, risk management and compliance, most recently with a regional bank in Kansas City, Missouri, before joining Dama in 2017.

Dama is the largest and the first end-to-end provider of banking and payment solutions for legal cannabis businesses in the United States. Today, we partner with banks which allows our clients a single relationship with multiple financial solutions. This includes everything from access to banking and merchant services to cash management, payments, POS, and inventory management solutions.

Dama was founded in 2016 to provide banking access to licensed cannabis-related businesses with a compliance first approach following the provisions outlined in the "Cole Memo" of February 14, 2014, as well the FinCEN Guidance, BSA/AML requirements and all applicable Federal and State laws.

Dama partners with banks that would like to provide access to banking but do not always have the resources or expertise to run a high-risk, cash extensive cannabis banking program on their own.

Dama has developed the gold standard of compliance frameworks to ensure we know our customers through enhanced onboarding, due diligence, and continued oversight. We do so in a safe and sound manner to minimize the risk of money laundering by preventing illegal operators and illicit cash from creating vulnerabilities in our financial ecosystem.

To understand the true source of funds, Dama goes beyond the high-risk banking requirements of Federal law by doing the following: Drilling down to 10 percent of ownership under the UBO rule and performing onsite inspections and risk assessments that encompass inherent and residual risk throughout the life cycle of the relationship. We reject a fair number of businesses from qualifying for our services because they are not transparent with us and/or they don't meet our diligent standards.

Because of these experiences, we believe the SAFE Banking Act should be stronger and encompass a more stringent statutory framework. We can't simply rely on existing guidance without more robust legislation from Congress. It is quite possible that banking standards will be more lax after the passage of the SAFE Banking Act than there is today.

If Congress gives financial institutions a "Safe Harbor" to provide services to Cannabis Related-Businesses (CRB), it must provide a tougher framework than existing guidance. At a minimum, a financial institution should follow enhanced rules regarding board approved risk limits and deposit ratios and reporting criteria when limits are approached or breached with required technology and staffing expertise. We must also include enhanced due diligence and ongoing monitoring requirements, especially as it pertains to cash deposits and legacy cash.

We also believe there is serious potential for confusion in the banking industry following the passage of this legislation. Will the cash truly get out of the system? Credit card companies have policies against banking illegal products which may prohibit cannabis transactions running on those rails even after the SAFE Banking Act passes. Without solving the larger decriminalization issues, we worry that the passage of the SAFE Banking Act alone could make problems worse by giving us a sense of resolution while huge conflict in Federal law still exists. This will still make it difficult for some financial institutions to proceed.

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

Lastly, as Congress wrestles with this issue, we think it should do so with a clear understanding of the opportunities for cannabis banking today. This problem is not the urgent one that it once was. According to FinCEN, there are over 700 financial intuitions that work with legal cannabis businesses. Every company that meets the risk standards we've laid out should already be able to access a banking solution in America. In my opinion, we should pause and provide more teeth to the existing bill to protect the financial and banking industry as a whole.

We are happy that Congress is having this hearing today. We believe that Congress should study these issues very carefully before moving forward. We look forward to answering your questions and working with Senators from both parties to resolve the cannabis banking issues facing our country.

PREPARED STATEMENT OF CAT PACKER
VICE CHAIR, CANNABIS REGULATORS OF COLOR COALITION

MAY 11, 2023

Dear Members of the Senate Committee on Banking, Housing, and Urban Affairs: I urge you to support several recommendations offered to improve the SAFE Banking Act, especially to ensure that cannabis banking is fair—which is what the F in SAFE stands for.

The Secure and Fair Enforcement Act of 2023, or “SAFE Banking Act”, includes new provisions to ensure timely and more comprehensive data collection and reports that are inclusive of the hemp industry, veteran-owned businesses and small businesses. These are changes the Drug Policy Alliance (DPA) and the Cannabis Regulators of Color Coalition (CRCC) fought to include. Additional positive changes to the bill include granting marijuana workers access to Federal mortgage loans and explicitly extending the bill’s protections to Community Development Financial Institutions (CDFIs), another provision DPA, CRCC, and our allies advocated for.¹

These new, commonsense provisions focused on promoting fairness are encouraging signs that the bill is headed in the right direction. However more can, and should, be done to ensure that all communities have the opportunity to benefit from this limited but critical reform. Fortunately, with a few additional minor and technical amendments the SAFE Banking Act could be a significantly improved means to promote fair access to banking for those participating in the hemp and cannabis market.

This letter details technical amendments to SAFE’s existing provisions regarding updated guidance from Federal banking regulators and studies and reports on diversity and inclusion that seek to promote fair access to cannabis banking.

Recommendations To Promote Fairness in Updated Guidance

Past Cannabis Criminal Records as Red Flags

The SAFE Banking Act would require Federal banking regulators to provide updated guidance to financial institutions regarding the provision of financial services to the cannabis and hemp industry. However, without additional provisions to ensure fairness, updated guidance may fail to adequately address access.

My top priority is to ensure that past cannabis criminal records are not considered “red flags” or an automatic indication that a business may be engaged in unlawful activity.

Existing guidance considers criminal records to be a “red flag” or information that serves as an automatic indication that a business may be engaged in illegal activity.² Although the guidance doesn’t make specific reference to cannabis criminal records, I am concerned that past cannabis criminal records, especially those that have been expunged or are for activity that has been pardoned or is no longer prohibited under State law, will be considered automatically be considered information that serves as an automatic indication that a business may be engaged in illegal activity.

Without proper context or consideration of State laws, failure to address this issue is likely to result in discriminatory practices against State-sanctioned cannabis businesses. I understand the importance of protecting financial institutions from involvement in illegal activities, but I also recognize that many individuals have been unfairly impacted by cannabis criminalization, particularly those in marginalized

¹ <https://drugpolicy.org/press-release/2023/04/statement-reintroduction-safe-banking-act-congress>

² <https://www.fincen.gov/resources/statutes-regulations/guidance/bsa-expectations-regarding-marijuana-related-businesses>

communities. Fortunately, existing guidance clarifies that future guidance can update what's considered a red flag and the SAFE Banking Act's existing requirement for updated guidance provides a timely and meaningful opportunity to address this issue.

Many States have changed their laws and established programs to remove barriers associated with past cannabis criminal records including through expungement or licensing opportunities for cannabis businesses. At least 25 States have pardoned or expunged past cannabis criminal records, either for some or all types of offenses.³ And at least 15 States have laws that allow individuals with past cannabis criminal records to participate in State-legal markets.⁴ Moreover, in order to ensure that future guidance does not interfere with related State and local interests, I recommend that the SAFE Banking Act ensure that updated guidance from Federal banking regulators clarifies that cannabis criminal records that have been expunged or those that are associated with activity that has been pardoned or is no longer prohibited under State law will not automatically be considered as red flags.

By doing so, we can ensure that financial institutions have clear guidelines to follow when serving the cannabis industry, and that individuals who have been impacted by past cannabis criminalization are not unfairly penalized. Without this type of change, cannabis criminal records will continue to be a significant barrier towards participation in State-legal marijuana industries, disproportionately impacting Black and Brown entrepreneurs and undermining State efforts to address barriers associated with cannabis criminal records.

Best Practices To Promote Fairness

Although the SAFE Banking Act has provisions to study barriers to access to financial services for those in the hemp and cannabis industry, it lacks measures to proactively promote fairness in access to banking.

The SAFE Banking Act inexplicably requires that Federal banking regulators' guidance for financial institutions servicing the hemp industry include best practices for financial institutions but includes no corresponding requirement for best practices within the requirements for updated guidance for the cannabis industry. Moreover, it's important that fairness be a primary goal of best practices.

As such, I recommend that the SAFE Banking Act be amended to ensure that updated guidance from Federal banking regulators includes best practices for financial institutions to follow, including best practices to promote fairness, when providing financial services, including processing payments, to State-sanctioned marijuana businesses and hemp-related legitimate businesses.

Information Sharing With Regulators

For many State and local regulators the cannabis and hemp industry's ability to access financial services provides an opportunity for greater insight into their market and a means for increased regulatory oversight. However, although financial institutions and regulators already regularly share information back and forth, both could benefit from an established process that is consistent, transparent, and fair.

In order to facilitate information sharing between financial institutions and regulators, I recommend that the SAFE Banking Act be amended to establish a process for financial institutions to follow, including best practices to promote fairness, when providing financial services, including processing payments, to State-sanctioned marijuana businesses and hemp-related legitimate businesses.

Recommendations To Promote Fairness in Studies and Reports on Diversity and Inclusion

Although the SAFE Banking Act would allow Federal officials to study and report on diversity and inclusion, these studies and reports can be significantly improved with a few technical amendments.

Study State and Local Strategies To Address Barriers

SAFE would require the GAO to study barriers to marketplace entry and success and barriers to access financial services for potential and existing minority-owned, veteran-owned, women-owned, and small State-sanctioned marijuana businesses and hemp-related legitimate businesses.

³ Arizona, California, Colorado, Connecticut, District of Columbia, Delaware, Hawai'i, Illinois, Maryland, Massachusetts, Michigan, Missouri, Montana, North Dakota, New Hampshire, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Virginia, and Washington. <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-marijuana-legalization-expungement/>

⁴ Arizona, California, Colorado, Illinois, Massachusetts, Michigan, Nevada, New Jersey, New Mexico, New York, Rhode Island, Oregon, Vermont, Virginia, and Washington.

It would also require the GAO to report its findings and recommendations to remove barriers and expand access. However, the SAFE Banking Act does not explicitly require the GAO to study or report on existing strategies, including those taken by State and local governments, to remove barriers and expand access. In order to ensure that the GAO report is informed by existing strategies and related lessons learned, I recommend that the SAFE Banking Act be amended to ensure that the GAO report on diversity and inclusion specify that the GAO is required to study and report on strategies, including those taken by State and local governments, to address barriers to market place entry and success, including in the licensing process, and the access to financial services for potential and existing minority-owned, veteran-owned, women-owned, and small State-sanctioned marijuana businesses and hemp-related legitimate businesses.

Barriers to Marketplace Competition

As mentioned above, SAFE would require the GAO to study and issue a report related to barriers to marketplace entry and success. However, as is the case with all businesses, and especially is the case with cannabis businesses, success is not guaranteed but largely dependent on a businesses' ability to compete. As such I recommend that the SAFE Banking Act be amended to clarify that the GAO's study on diversity and inclusion address barriers to marketplace entry and competition, or at least clarify that barriers to competition should be included in its consideration of marketplace barriers to success.

Reports and Studies on Diversity and Inclusion Should Promote Fair Access not Expanded Access

In addition to the GAO's report on diversity and inclusion, SAFE also requires a diversity and inclusion report from Federal banking regulators. SAFE requires both the GAO and Federal banking regulators to specifically make recommendations for "expanding access" to financial services.

A quick example highlights why the SAFE Banking Act should be amended to require Federal officials to develop recommendations for promoting fair access to financial services instead.

If Black Americans are 14.2 percent of the population,⁵ but found to represent only 2 percent of those with access to financial services, under a standard of "expanding access", Federal officials could simply make recommendations to raise this percentage from 2 percent to 3 percent. Without fair access as the standard, minority-owned, veteran-owned, women-owned, and small State-sanctioned marijuana businesses and hemp-related legitimate businesses—and others will continue to be underserved by cannabis banking.

Other Technical Amendments and Recommendations

SAFE's Purpose

Although the 2021 version of SAFE included a purpose section, the 2023 version does not. The purpose within the 2021 version stated "The purpose of this Act is to increase public safety by ensuring access to financial services to cannabis-related legitimate businesses and service providers and reducing the amount of cash at such businesses."

I recommend reinserting a purpose section and amending the purpose of SAFE to read as follows: "The purpose of this Act is to provide protections for financial institutions that provide financial services to State-sanctioned marijuana businesses, hemp-related legitimate businesses and related service providers, and to promote fairness and safety in the provision of related financial services."

Beyond ensuring that fairness and safety are explicitly stated as priorities, the inclusion of a purpose section is particularly important because SAFE would require that updated guidance from Federal banking regulators for financial institutions servicing the cannabis industry "ensure consistency with the purpose and intent" of SAFE. Without a purpose, this requirement is not practicable.

Legacy Deposits

SAFE includes new provisions that would create restrictions for financial institutions accepting cash deposits, which SAFE refers to as "Legacy Deposits".

First as a matter of principle, the term legacy within the cannabis and hemp community has come to mean a number of different things, but generally centers around the idea of a longstanding participant in trade and or community. However, the SAFE Banking Act's use of the term "legacy" in reference to cash deposits, is largely disconnected from how this term is used in the cannabis and hemp trade

⁵ <https://www.pewresearch.org/social-trends/fact-sheet/facts-about-the-us-black-population/>

community, especially considering that it creates a requirement that would likely prevent most legacy operators from accessing banking in that it limits a financial institution's ability to accept cash from a State-sanctioned marijuana business to a 90-day period. Moreover, these restrictions apply to all cash deposits. And the term legacy here doesn't add value but may instead cause contention and confusion. Therefore, instead of referring to these deposits as legacy deposits, I recommend that the SAFE Banking Act be amended to strike any reference to the term legacy and simply refer to these deposits as cash deposits.

Moreover, the 90-day period should be reconsidered to specifically assess what impact this limitation has on promoting fair access to financial services for State-sanctioned marijuana businesses.

Technical Clean Up

Technical Clarification—Sec. 11(1) should be amended to ensure the Federal banking regulator's diversity and inclusion report includes "hemp-related legitimate businesses."

Technical Clarification—Sec. 12 (a) should be amended to ensure the GAO study on diversity and inclusion includes "removing barriers to marketplace success."

I urge your consideration of these requests for technical but meaningful improvements to SAFE to promote fairness and for your ongoing efforts to continue to work towards creating a more safe and fair regulatory framework.

AUGUST 2022



**Not a SAFE Bet: Equitable
Access to Cannabis Banking**
An Analysis of the SAFE Banking Act

 THE OHIO STATE UNIVERSITY
MORITZ COLLEGE OF LAW

DRUG ENFORCEMENT
AND POLICY CENTER



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August 2022

**Not a SAFE Bet: Equitable Access to Cannabis Banking
An Analysis of the SAFE Banking Act**

Authors: Cat Packer, Shaleen Title, Rafi Aliya Crockett, and Dasheeda Dawson

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ABSTRACT

According to its sponsors and supporters, the Safe and Fair Enforcement ("SAFE") Banking Act would help address the challenges faced by small cannabis businesses that cannot currently access banking services or loans. With cannabis social equity programs ramping up across the nation but their participants lacking capital, a bill to solve that problem would be a well-timed blessing. But unfortunately, SAFE, as written, is unlikely to result in equitable access to financial services.

This paper summarizes the bill, analyzes why it would fall short of its purported goals, and makes recommendations to improve the bill. Here are our ten recommended amendments in short form, recognizing that none are an adequate solution on its own:

1. Use revenue collected by 280E to create a fund providing capital for businesses owned by people harmed by the War on Drugs.
2. As a condition of safe harbor, require financial institutions to demonstrate compliance with anti-discrimination laws such as the Equal Credit Opportunity Act.
3. Explicitly protect Minority Depository Institutions (MDIs) and Community Development Financial Institutions (CDFIs).
4. Raise evidentiary requirements and limit enforcement penalties for MDIs and CDFIs for servicing legitimate cannabis businesses.
5. Expand required federal guidance and reports to promote equity alongside diversity and inclusion.
6. Require federal banking regulators to identify best practices to achieve racial equity in financial services.
7. Clarify that cannabis criminal records are not an automatic red flag.
8. Identify barriers beyond marketplace entry by including barriers experienced before, during, and after the licensure process.
9. Study and report on diversity, equity, and inclusion in the hemp industry, as well as the cannabis industry.
10. Promote compliance with state and local regulatory requirements regarding business ownership.

ABOUT THE CANNABIS REGULATORS OF COLOR COALITION

The Cannabis Regulators of Color (CRCC) is a coalition of government officials appointed or selected to lead, manage, and oversee regulatory and policy implementation for legal medical and adult-use cannabis markets across the nation and abroad. As leaders in post-prohibition cannabis policy, we focus on equity-centered regulation, industry best practices and cannabis competency and standardization.

Our mission is to be a source of education for legislators and government agencies that aim to identify and eliminate racial disparities in cannabis policy and build sustainable cannabis regulatory frameworks designed to deliver on the reparative and restorative potential of the global cannabis legalization and decriminalization movement.

Described as architects of cannabis equity and policy reform in the United States, our collaboration strategy is to work with stakeholders who believe in our values and commit to our shared goals.

ABOUT THE AUTHORS



Cat Packer

Distinguished Cannabis Policy Practitioner in Residence, Drug Enforcement and Policy Center, Moritz College of Law, The Ohio State University

Vice Chair, Cannabis Regulators of Color Coalition

Former Executive Director, City of Los Angeles Department of Cannabis Regulation

Cat Packer is a leading expert on cannabis law and policy who envisions cannabis policy reform as both an opportunity and responsibility to promote harm reduction and advance equity and social justice. Currently, Packer serves as Distinguished

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Packer is recognized as the first person of color in the nation to lead a medical and adult-use cannabis regulatory program. From 2017 to 2022, Packer served as the first Executive Director of the City of Los Angeles Department of Cannabis Regulation where she led efforts to advise and implement cannabis business licensing and regulation in 'the world's largest cannabis market.' Under her leadership, the City of Los Angeles licensed over 1200 cannabis businesses, collected over \$320 million in cannabis tax revenue and became one of the first jurisdictions in the nation to establish programming designed to promote equitable ownership and employment opportunities in the cannabis industry.

Prior to her role as a regulator, Packer worked for the Drug Policy Alliance where she organized cannabis-related legislative and public affairs strategies and partnerships at the state and local level. Packer is a proud alumna of The Ohio State University where she received a bachelor's degree in political science, a master's degree in public policy and management, a Juris Doctor and was named the 2020 Recipient of the Moritz College of Law Outstanding Recent Alumna Award.



Shaleen Title

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Co-Founder, Cannabis Regulators of Color Coalition

Former Commissioner, Massachusetts Cannabis Control Commission

Shaleen Title is an Indian-American attorney and longtime drug policy activist who currently serves as Distinguished Cannabis Policy Practitioner in Residence at the Drug Enforcement and Policy Center. Title is co-founder of Parabola Center and vice-chair of the Cannabis Regulators of Color Coalition, and in 2021 was named

to Boston's 40 Under 40 List. She was appointed by the Massachusetts governor, attorney general, and treasurer to serve as one of five inaugural commissioners of the Cannabis Control Commission from 2017 to 2020. During her time as a regulator, she was widely recognized for her focus on racial justice and her efforts to make the cannabis industry more fair and inclusive. Before her term as commissioner, she worked on multiple state marijuana legalization campaigns, and as a founding board member of the Minority Cannabis Business Association she led the drafting of the first model bill created to give states guidance to implement a process of reinvestment and reconciliation. She is an advisor to Supernova Women, a nonprofit organization providing a space for women of color in cannabis, and the THC Staffing Group Mentorship Program.

Shaleen is a frequent lecturer on cannabis policy and has testified in front of governmental bodies around the world about restorative justice in marijuana laws. She has been interviewed by numerous media outlets and she routinely partners with leading drug policy organizations to support drug policy reform. Shaleen holds a business degree, law degree, and graduate degree in accounting.



Rafi Aliya Crockett

Commissioner, Washington, D.C. Alcoholic Beverage Control Board
Treasurer, Cannabis Regulators of Color Coalition

Rafi Aliya Crockett is founder of Maroon Compliance, a compliance, risk and regulatory consultancy. Having begun her career as a regulator at both OFAC and FinCEN, Ms. Crockett has over 15 years of experience driving compliance and regulatory change management for financial institutions, government agencies and private sector organizations, both domestically and internationally.

In 2019, Ms. Crockett was appointed to Washington, D.C.'s Alcoholic Beverage Control Board, the District's alcohol and cannabis regulator. As a board member, Ms. Crockett works with legislators and government agencies to drive change focused on eliminating disparities in access, ownership and participation in the city's alcoholic beverage and cannabis industries.

Ms. Crockett is Treasurer of the Cannabis Regulators of Color Coalition, a coalition of government officials focused on equity-centered regulation, industry best practices, and cannabis competency and standardization. Ms. Crockett is a member of the National Cannabis Industry Association, and the first regulator to serve on its Diversity, Equity and Inclusion Committee. Ms. Crockett is writer and executive producer of the forthcoming documentary film, Higher Power, about cannabis legalization, racial justice and statehood in Washington, D.C.



Dasheeda Dawson

Cannabis Program Manager, City of Portland, Oregon
Chair, Cannabis Regulators of Color Coalition
Adjunct Professor, LIM College

Dasheeda Dawson is a global cannabis advocate, award-winning Fortune 100 business strategist and bestselling author of *How to Succeed in the Cannabis Industry* featured across multiple outlets including *Entrepreneur*, *The New York Times*, and *Esence*. She has nearly 20 years of business development, strategic management and brand marketing excellence while leading transformative businesses for philanthropic and for-profit corporations. For over five years, she

has worked as a cannabis-focused educator, senior executive leader, and strategy expert for multiple businesses, municipalities, and media outlets across the country.

Currently, Dasheeda is the City of Portland's Cannabis Program Manager in the Office of Community & Civic Life, responsible for overseeing all regulatory licensing, compliance and equity initiatives for the city's cannabis industry. Supported by ongoing cannabis tax revenue allocation, her office oversees the Social Equity & Educational Development (SEED) Initiatives which includes the nationally-modeled SEED Grant Fund, the country's first community reinvestment fund tied to cannabis tax revenue. Under her leadership, Portland recently approved a multimillion dollar Cannabis Emergency Relief Fund (CERF) becoming the first government jurisdiction in the country to allocate cannabis tax revenue to specifically provide aid and emergency relief to the industry. In her role, she also serves as Chair of the Cannabis Regulators of Color Coalition (CRCC).

Dasheeda received her MBA from Rutgers Business School and completed her undergraduate degree in molecular biology at Princeton University. She is a weekly correspondent on SiriusXM Urban View (ch. 126) and co-host on *She Blaze*, an award-winning weekly cannabis news and culture podcast available on Spotify, Apple Podcasts and iHeartRadio. Dasheeda is co-founder and Chief Strategist for Cannabis Health Equity Movement (CHEM) and co-founder of Community Education Advocacy Symposium & Expo (CEASE), a Brooklyn-based nonprofit organization.

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EXECUTIVE SUMMARY

Passed by the U.S. House of Representatives seven times, the SAFE Banking Act would amend federal law to prevent federal banking regulators from penalizing depository institutions for providing financial services to "legitimate" cannabis and hemp businesses. SAFE would also establish that for anti-money laundering purposes, proceeds derived from state-legal cannabis businesses are not considered proceeds derived from unlawful activity. Whether these measures would significantly increase financial services provided to small cannabis businesses is unclear at best. This topic—cannabis banking reform as an equity issue—was briefly acknowledged and questioned¹ at a July 26, 2022 hearing of the U.S. Senate Judiciary Subcommittee on Criminal Justice and Counterterrorism titled "Decriminalizing Cannabis at the Federal Level: Necessary Steps to Address Past Harms" further contributing to an ongoing debate² about the impact that the SAFE Banking Act could have on racial equity in cannabis banking.

The SAFE Banking Act would provide financial institutions protections for activities that have never actually been subject to severe consequences. Currently, an estimated 200 to 800 depository institutions already provide some form of financial services to cannabis-related businesses in accordance with 2014 FinCEN guidance. With the exception of one action taken against a credit union, based on an inadequate compliance program, it does not appear that federal regulators are penalizing financial institutions for banking the cannabis industry.

Of particular significance, the SAFE Banking Act would not require financial institutions to provide services to the cannabis industry and cannabis's federally illegal status would remain unchanged. Instead, SAFE would maintain financial institutions' discretion to decide whether to serve a particular client or industry. Because the application of this discretion is highly dependent on perceptions of risk and profit—both of which are impacted by cannabis's federally illegal status—the bill is unlikely, without more comprehensive reforms, to significantly change existing issues related to access and equity for small cannabis businesses that currently have inadequate access to banking services or loans.

Moreover, the SAFE Banking Act neither acknowledges, nor takes any steps to address, existing and longstanding inequities that are prevalent throughout the financial services industry. These inequities are likely to persist and could worsen for cannabis businesses who experience compounded racial inequities in the cannabis industry. For these reasons, the SAFE Banking Act, in its current form, is not a safe bet to achieve fair and equitable access to financial services for those in the cannabis industry.

SAFE would address only the legal and regulatory consequences potentially faced by financial institutions for providing services to the cannabis industry. Without additional legislative amendments to directly address challenges related to fair and equitable access to financial services, small and minority-owned cannabis businesses that currently have inadequate access to banking services or loans are likely to continue to be denied the full breadth and depth of services offered to others. Based on our equity-focused experience regulating cannabis businesses across the nation, we believe that our recommendations, which include explicit efforts to address equity, taken together, can transform the SAFE Banking Act from a bill that is likely to maintain or, worse, widen the equity gap to a significant set of measures to benefit the people who need it most.

¹Decriminalizing Cannabis at the Federal Level: Necessary Steps to Address Past Harms, Hearing of the U.S. Senate Judiciary Subcommittee on Criminal Justice and Counterterrorism, 117th Congress (2022) <https://www.youtube.com/watch?v=GJcHpST0Gdg>
²Jaeger, Kyle. "Is Cory Booker Ready to Embrace Marijuana Banking Reform? New Comments Hint at Possible Pivot." Marijuana Moment, July 27, 2022 <https://www.marijuanamoment.net/is-cory-booker-ready-to-embrace-marijuana-banking-reform-new-comments-hint-at-possible-pivot/>

INTRODUCTION

Federal laws continue to criminalize activities involving cannabis and cannabis-related proceeds. Because of these laws, financial institutions that provide financial services to cannabis businesses are at risk of violating federal law, even when those cannabis businesses are compliant with state laws authorizing cannabis for medical and/or adult use. As a result, they could be subject to severe legal and regulatory consequences.

The SAFE Banking Act would eliminate the risk of these federal consequences by establishing safe harbor for financial institutions when providing financial services to hemp businesses and cannabis businesses complying with state laws, as well as when investing proceeds derived from those services. Proponents of SAFE claim that establishing this protection for banks will result in increased and fair access to banking for the cannabis industry³ and that this increase in access will promote financial transparency⁴ and public safety by reducing cash within the cannabis industry.⁵ Moreover, they allege the legislation would advance goals of racial equity within the cannabis industry by helping minority operators access much-needed capital and financial services.⁶

“Individuals who are truly concerned about access and equity should acknowledge that the SAFE Banking Act, in its current form, is not a safe bet to ensure fairness.”

However, despite claims that the SAFE Banking Act would improve issues related to access and equity, SAFE would maintain financial institutions' discretion to decide whether to serve a particular client or industry. Moreover, although evidence suggests that many financial institutions' *specific* concern regarding federal consequences has already been lowered by federal banking regulators' generally laissez-faire approach, other financial institutions are likely to continue to decide against banking the cannabis industry due to concerns of other associated risks. Furthermore, documented patterns of discriminatory practices in the financial services industry indicate that if Congress does not take proactive measures to promote and prioritize equity, Black and Brown communities seeking financial services to participate in the legal cannabis industry are likely to experience continued inequities. As a result, SAFE's offer of protection from federal consequences is unlikely to result in a dramatic change to the way financial institutions decide to whom to provide services within the cannabis industry.

Consequently, individuals who are truly concerned about access and equity should acknowledge that the SAFE Banking Act, in its current form, is not a safe bet to ensure fairness. Without immediate and ongoing prioritization of these issues, barriers to access are likely to remain prevalent and disparities could worsen. Those concerned about equity within cannabis public policy reform more generally should consider the impact that Congress' prioritization of SAFE, rather than equity-centered reforms, could have on broader efforts to comprehensively address the Drug War's lasting inequities. In other words, we should brace ourselves for the harm that the SAFE Banking Act will cause if passed as written.

FEDERAL LAWS AND LEGAL CONSEQUENCES

Federal laws, namely the Controlled Substances Act (CSA), the Bank Secrecy Act (BSA), and anti-money laundering (AML) laws, criminalize activities involving cannabis and cannabis-related proceeds. Because of these laws, financial institutions that provide financial services to the cannabis industry could be subject to severe legal and regulatory consequences, even if the cannabis businesses serviced are compliant with state laws authorizing cannabis for medical and/or adult use.

³ Smith, Aaron. National Cannabis Association. Letter to U.S. House Committee on Financial Services Chair Maxine Waters and Ranking Member Patrick McHenry. March 16, 2021. https://perlmutter.house.gov/uploads/dfs/national_cannabis_industry_association.pdf

⁴ Nichols, Rob. American Bankers Association. Letter to U.S. Reps. Ed Perlmutter, Nydia M. Velázquez, Steve Stivers, and Warren Davidson. March 17, 2021. https://perlmutter.house.gov/uploads/dfs/american_bankers_association.pdf

⁵ Cannabis Regulators Association. Letter to U.S. Senate Majority Leader Chuck Schumer and Minority Leader Mitch McConnell and U.S. House Speaker Nancy Pelosi and Minority Leader Kevin McCarthy. "Re: Urging Policy Action to Address Current Cannabis Banking Situation in States," May 18, 2021. <https://www.cann-ra.org/news-events/1170dksco1c16t1zvea1o6zqbaocw>

⁶ Minority Cannabis Business Association. "The SAFE Banking Act of 2019." <https://minoritycannabis.org/wp-content/uploads/2021/10/SAFE-Banking-Act-of-2019.pdf>

Under the Controlled Substances Act, the production, distribution, and possession of cannabis is a crime under federal law except for the purposes of research sanctioned by the Drug Enforcement Administration (DEA).⁷ Those who violate the CSA, including any state-legal cannabis business or consumer, could be subject to imprisonment and fines, and any property used to grow marijuana or facilitate its sale or use could be confiscated by federal authorities through civil or criminal forfeiture proceedings.⁸

Although a financial institution's provision of financial services to cannabis clients is not a direct violation of the CSA, federal AML laws criminalize the handling of proceeds that are knowingly derived from specified unlawful activities.⁹ The Financial Crimes Enforcement Network (FinCEN) defines money laundering as the process of making illegally gained proceeds appear legal.¹⁰ Consequently, when providing financial services to the cannabis industry, financial institutions are considered to be engaged in financial transactions involving proceeds derived from illegal activity and could be subject to imprisonment, fines, and civil or criminal asset forfeiture for violating federal AML laws.¹¹

Moreover, the Bank Secrecy Act requires financial institutions to establish and maintain AML programs and to assist law enforcement to detect and prevent money laundering. In order to accomplish these objectives, financial institutions are required to report and record financial transactions that are considered to have a "high degree of usefulness in criminal, tax, or regulatory investigations or proceedings."¹² Specifically, financial institutions are required to file suspicious activity reports (SARs) with FinCEN regarding financial transactions suspected to be derived from unlawful activities,¹³ which includes cannabis-related transactions. To mitigate the risks of money laundering, financial institutions are required to conduct customer due diligence, and institutions' officers and employees are required to have sufficient knowledge of their clients' businesses to identify when filing SARs is appropriate.¹⁴

Depository institutions and their directors, officers, controlling shareholders, employees, agents, and affiliates who violate federal AML laws or the Bank Secrecy Act could be subject to administrative enforcement actions by federal banking regulators. These actions could include cease-and-desist orders, the imposition of civil money penalties, and the issuance of removal and prohibition orders that temporarily or permanently ban individuals from working for depository institutions.¹⁵ In certain cases, institutions could face revocation of their federal deposit insurance or even seizure and liquidation.

WHAT THE SAFE BANKING ACT DOES

Protections for Financial Institutions

To protect financial institutions from the aforementioned federal legal and regulatory consequences associated with activities involving cannabis and cannabis-related proceeds, SAFE would prevent federal banking regulators from penalizing depository institutions solely for providing financial services to legitimate hemp and cannabis businesses, with "legitimate" defined as complying with state laws and the 2018 Farm Bill. The legislation would also protect depository institutions and their personnel from some legal liability under the BSA, AML laws, and asset forfeiture laws when providing financial services to, or investing proceeds derived from serving, state-compliant hemp and cannabis businesses.¹⁶ Of particular note for anti-money laundering purposes, SAFE would declare that proceeds derived from state-legal cannabis businesses are not considered proceeds derived from unlawful activity.¹⁷

⁷ Controlled Substances Act, H.R. 18563 (1970).

⁸ 21 U.S.C. § 844(a) & 841(b).

⁹ 18 U.S.C. §§ 1956-1957.

¹⁰ "History of Anti-Money Laundering Laws." Financial Crimes Enforcement Network. <https://www.fincen.gov/history-anti-money-laundering-laws>

¹¹ 18 U.S.C. §§ 1956-1957.

¹² Bank Secrecy Act, H.R. 15073 (1970).

¹³ 31 U.S.C. § 5318(g).

¹⁴ 31 U.S.C. § 5318(g)-(h).

¹⁵ "Enforcement Actions." Board of Governors of the Federal Reserve System. <https://www.federalreserve.gov/supervisionreg/enforcement-actions-about.htm>

¹⁶ H.R. 1996, "Safe Banking Act of 2021." 117th U.S. Congress (2021-2022). <https://www.congress.gov/bills/117/congress-house/bills/1996>

¹⁷ *Ibid.*

Updated Guidance from Federal Banking Regulators

SAFE would require federal banking regulators to update guidance for financial institutions serving cannabis and hemp businesses. Specifically, regulators would be required, within 180 days of enactment, to update the 2014 guidance titled "BSA Expectations Regarding Marijuana-Related Businesses" (FIN-2014-G001) to detail requirements for filing SARs regarding cannabis-related legitimate businesses or service providers. As for hemp, within 90 days of enactment, regulators would need to update "existing guidance, as applicable, regarding the provision of financial services to hemp-related legitimate businesses and hemp-related service providers."¹⁸ SAFE would require legitimate cannabis and hemp businesses to comply with the updated guidance. SAFE would also require the Financial Institutions Examination Council to "develop uniform guidance and examination procedures" for depository institutions that provide financial services to cannabis-related businesses or service providers.¹⁹

Reports and Studies

SAFE would require federal banking regulators and the U.S. Government Accountability Office (GAO) to conduct certain studies and issue reports, including those pertaining to diversity and inclusion. Banking regulators would need to issue reports annually on "information and data on the availability of access to financial services for minority-owned and women-owned cannabis-related legitimate businesses" and "any regulatory or legislative recommendations for expanding access to financial services for minority-owned and women-owned cannabis-related legitimate businesses."²⁰ The GAO, meanwhile, would be mandated to study "the barriers to marketplace entry, including in the licensing process, and access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses." The study's findings would be included in a report to Congress along with "any regulatory or legislative recommendations."²¹

SAFE would also require the GAO, within two years of the law's enactment, to conduct a study to determine the effectiveness of SARs "at finding individuals or organizations suspected or known to be engaged with transnational criminal organizations" and whether such activity occurs in jurisdictions that have authorized cannabis-related activity.²² Unrelated to cannabis specifically, SAFE would also establish new requirements for federal banking agencies to follow when making deposit account termination requests and orders. SAFE would prevent agencies from requesting or ordering a depository to terminate a customer account unless the agency has a valid reason for doing so, and that reason is not based solely on reputational risk. SAFE would further require federal banking regulators to report related data annually to Congress.²³

WHY SAFE IS NOT LIKELY TO RESULT IN EQUITABLE ACCESS TO BANKING

Despite claims from both the financial services industry²⁴ and the cannabis industry²⁵ that the SAFE Banking Act is the most viable way to address the challenges associated with cannabis banking, including access and equity, evidence suggests that the safe harbor provisions in SAFE would have a limited practical impact. First, although the federal government has been aware of the existence of banks serving cannabis clients since at least 2014, its approach to cannabis banking has been chiefly to provide guidance. So far it has stopped short of imposing severe legal or regulatory consequences. Second, SAFE would not explicitly require that financial institutions provide services to the cannabis industry. Instead, it would leave the decision to the discretion of individual financial institutions. Consequently, many financial services providers are likely, at least in the immediate future, to choose not to provide services to the cannabis industry based on other sources of perceived risk. Third, without additional efforts to acknowledge and address equity, existing racial disparities in the financial industry are likely to be perpetuated

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Nichols. American Bankers Association. Ibid.

²⁵ Smith. National Cannabis Association. Ibid.

and exacerbated for businesses in the cannabis industry that seek financial services. For these reasons, SAFE may increase access to cannabis banking services for some, but it is unlikely to result in fair access for all.

The Current State of Cannabis Banking

Despite the authority that law enforcement and regulators technically have under the CSA, the BSA, and AML laws, federal agencies' reaction to recent state-level cannabis legalization has been to provide guidance rather than to penalize financial institutions solely for providing financial services to the cannabis industry.

In 2014, FinCEN issued guidance, titled "BSA Expectations Regarding Marijuana-Related Businesses" (FIN-2014-G001), that acknowledged the existence of both "state initiatives to legalize certain marijuana-related activity" and financial institutions that were already seeking to provide services to marijuana-related businesses.²⁶ This guidance reiterated the illegal status of cannabis under the CSA and identified related federal law enforcement priorities established within a 2013 Department of Justice memo²⁷ but clarified that financial institutions could provide services to marijuana-related businesses consistent with their BSA obligations to file a suspicious activity report on financial transactions involving illegal activity. Regulators said at the time that they expected the guidance to "enhance the availability of financial services for, and the financial transparency of, marijuana-related businesses."²⁸ Specifically, the 2014 FinCEN guidance notes that "because federal law prohibits the distribution and sale of marijuana, financial transactions involving a marijuana-related business would generally involve funds derived from illegal activity. Therefore, a financial institution is required to file a SAR on activity involving a marijuana-related business (including those duly licensed under state law), in accordance with this guidance and FinCEN's suspicious activity reporting requirements and related thresholds."²⁹

The guidance specifies that financial institutions serving cannabis businesses must file one of three types of SARs: A marijuana limited SAR should be filed when a financial institution determines, based on its customer due diligence, that a cannabis business is not engaged in activities that violate state law or federal enforcement priorities. A marijuana priority SAR should be filed when a financial institution believes, based on its customer due diligence, that a cannabis business is engaged in activities that violate state law or federal enforcement priorities. And a marijuana termination SAR should be filed when a financial institution deems it necessary to terminate a relationship with a cannabis business in order to maintain an effective anti-money laundering compliance program.³⁰

Since the FinCEN guidance was released, available data has revealed an increasing number of financial institutions providing services to the cannabis industry. According to Bloomberg, the cannabis banking industry is "booming."³¹ Moreover, this reality is no secret to banking regulators: Federal data confirm not only the existence of financial institutions that provide financial services to the cannabis industry but also the growing number of such institutions.³² As of September 2021, FinCEN reported that 755 depository institutions claimed to provide some form of financial services to marijuana-related businesses, up from 686 a year prior.³³

While FinCEN notes that, as of September 2021, there were 755 depository institutions banking legitimate cannabis-related businesses (CRBs), the exact figure is disputed. Many in the cannabis and financial services industries claim a more accurate number is between 200 and 250. Green Check Verified, which provides technology and advisory services to financial institutions in order to service CRBs, currently works with more than 100 institutions in nearly every state with some form of legal cannabis program, according to Peter Su, Green Check's national relationship manager. Of those, 58 percent are banks and 42 percent are credit unions, and according to Su, they offer "a full spectrum of commercial banking products, aside from credit cards and certain restrictions with wires." Though the

²⁶ "BSA Expectations Regarding Marijuana-Related Businesses," FIN-2014-G001. Financial Crimes Enforcement Network (FinCEN), February 14, 2014. <https://www.fincen.gov/sites/default/files/guidance/FIN-2014-G001.pdf>

²⁷ Cole, James M., Deputy Attorney General, U.S. Department of Justice. "Memorandum for All United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes," August 29, 2013. <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>

²⁸ "BSA Expectations..." FinCEN. Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Kary, Tiffany. "Cannabis Banking Is Booming Despite Federal Uncertainty." Bloomberg, January 18, 2022. <https://www.bloomberg.com/news/newsletters/2022-01-18/marijuana-banking-is-moving-forward-despite-federal-uncertainty>

³² "Marijuana Banking Update." Financial Crimes Enforcement Network, 2021. https://www.fincen.gov/sites/default/files/shared/305326_MJ%20Banking%20Update%4204th%20QTR%20FY2021_Public_Final.pdf

³³ Ibid.

boundaries of financial services currently being provided to the cannabis industry are unclear,³⁴ existing data confirms that cannabis banking in accordance with guidance has existed for years without evidence of penalties.

Although federal banking regulators are often characterized by their "strong, flexible administrative enforcement powers"³⁵ and "comprehensive supervisory regimes to ensure that depository institutions operate in a safe and sound manner and comply with applicable laws,"³⁶ to date, no regulator has brought sanctions against a financial institution simply for providing services to a CRB. This is true despite the fact that federal regulators reportedly have prioritized BSA and AML compliance to fight financial crime in recent years by increasing both the number of actions and the size of monetary penalties.³⁷

Instead of taking a punitive approach, federal banking regulators' response to financial institutions that provide financial services to the cannabis industry has ranged from passive acknowledgment to active support for legislative reforms. At certain times they've repeated that the activity is illegal but nevertheless occurs,³⁸ and at others they've issued statements confirming that financial institutions would not face enforcement based solely on doing business with the cannabis industry.³⁹

In February 2021, the National Credit Union Administration took its first-ever action against a credit union relating to cannabis banking services. Notably, however, the action was due to the institution's compliance program being inadequate, not because it was providing financial services to cannabis businesses.⁴⁰ The enforcement action is widely considered to be the first example of a federal banking regulator penalizing a financial institution for compliance-related failures explicitly related to the cannabis industry.⁴¹

In July 2022 federal banking agencies made their position on cannabis banking even clearer in a joint statement intended "to remind banks of the risk-based approach to assessing customer relationships and conducting customer due diligence." This joint statement reinforced their "longstanding position that no customer type presents a single level of uniform risk or a particular risk profile related to money laundering, terrorist financing, or other illicit financial activity" and encouraged banks "to manage customer relationships and mitigate risks based on customer relationships, rather than decline to provide banking services to entire categories of customers."⁴²

The Impact of Risk Assessments on Banking Access

Because the SAFE Banking Act would provide financial institutions with only narrow protections for activities that have never actually been subject to the severe legal and regulatory consequences that federal law technically permits, the practical impact that a safe harbor provision would have on the financial services industry's decision to bank the cannabis industry is unknown.

³⁴ "The Evolution of Marijuana as a Controlled Substance and the Federal-State Policy Gap," R44782. Congressional Research Service, April 7, 2022. <https://crsreports.congress.gov/product/pdf/R/R44782>

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ Carpenter, David H. "Financial Services for Marijuana Businesses." In Focus. Congressional Research Service, November 27, 2019. <https://crsreports.congress.gov/product/pdf/FF/FF11373> Citing: Sykes, Jay B. "Trends in Bank Secrecy Act/Anti-Money Laundering Act Enforcement." R45076. Congressional Research Service, January 12, 2018. <https://crsreports.congress.gov/product/pdf/R/R45076>

³⁸ In 2020, then-FDIC Chair Jelena McWilliams said in a media Q&A, "As a federal regulator, I still have to say it's illegal to bank marijuana. But to the extent you're doing it because it's legal in your state, please follow FinCEN guidance." Manes, Nick. "Q&A: FDIC Chair Jelena McWilliams on state of banking industry, PPP, marijuana business." Crain's Detroit, June 3, 2020. <https://www.craigslist.com/banking/qa-fdic-chair-jelena-mcwilliams-state-banking-industry-ppp-marijuana-business>

³⁹ As NCUA Board Member Rodney E. Hood's said at an industry event in April 2022, "We make it clear to credit unions, in particular state chartered credit unions in states where marijuana is legal, are welcome to serve cannabis- and marijuana-related businesses provided that they do their due diligence, observe all relevant 'Know Your Customer' and Bank Secrecy Act requirements, and adhere to the FinCEN guidance."

Hood, Rodney E. "NCUA Board Member Rodney E. Hood's Remarks at the Emerging Markets Coalition in Washington, D.C." National Credit Union Administration, April 7, 2022. <https://www.ncua.gov/newsroom/speech/2022/ncua-board-member-rodney-e-hoods-remarks-emerging-markets-coalition-washington-dc>

⁴⁰ "Administrative Order: Stipulation and Consent to Cease and Desist Order." In the Matter of Live Life Federal Credit Union, 21-0105-ER. National Credit Union Administration, February, 2021. <https://www.ncua.gov/regulation-supervision/enforcement-actions/administrative-orders/2021/administrative-order-matter-live-life-federal-credit-union>

⁴¹ Dubow, Jay, James Steves, and Jeremy Tobes. Troutman Pepper. "Credit Union's Marijuana-Related Compliance Failure Is a Warning to Lenders." JD Supra, March 19, 2021. <https://www.ldsupra.com/legalnews/credit-union-s-marijuana-related-1873542/>

⁴² Joint Statement on the Risk-Based Approach to Assessing Customer Relationships and Conducting Customer Due Diligence," SR 22-5. Division of Supervision and Regulation, Board of Governors of the Federal Reserve System, July 6, 2022. <https://www.federalreserve.gov/supervisionreg/srletters/SR2205.htm>

Moreover, although financial service providers have reported that the risk of legal consequences is one reason they are unwilling to work with marijuana clients, it is unlikely that existing legal and regulatory consequences are the sole factor affecting a financial service provider's decision. In fact, financial services providers admit that "the SAFE Banking Act is not a cure all for the cannabis banking challenge," and is only one of several steps "toward enabling financial services for cannabis-related businesses."⁴³

Despite this reality, proponents of SAFE within the cannabis industry frequently make questionable claims based on assumptions that the establishment of safe harbor for financial institutions will automatically translate into access for smaller cannabis businesses who currently lack capital.⁴⁴ Access to financial services for the cannabis industry, however, will remain at the discretion of individual financial institutions and highly dependent on perceptions of risk and profit, resulting in varied levels of access to banking.

The SAFE Banking Act itself would not require financial institutions to provide financial services to the cannabis industry. SAFE explicitly states, "Nothing in this Act shall require a depository institution, entity performing a financial service for or in association with a depository institution, or insurer to provide financial services to a cannabis-related legitimate business, service provider, or any other business."⁴⁵ Furthermore, existing FinCEN guidance states that "the decision to open, close, or refuse any particular account or relationship should be made by each financial institution based on a number of factors specific to that institution" that may include "its particular business objectives, an evaluation of the risks associated with offering a particular product or service, and its capacity to manage those risks effectively." This guidance emphasizes the point that "thorough customer due diligence is a critical aspect of making this assessment."⁴⁶

For financial institutions, risk assessment and risk management is not just a regulatory requirement, but an ongoing business strategy⁴⁷ to support their bottom line. Intended to "address the varying degrees of risk associated with its products, services, customers, and geographic locations," a financial institution's risk assessment may, among other considerations, include a review of whether or not a particular client's business is subject to frequent legal and regulatory changes, faces high ongoing compliance standards, or may require additional staff or technology.⁴⁸ Based on the factors that impact a financial institution's assessment of risk, some clients and industries are considered high-risk and, as a result, experience challenges accessing financial services. For example, a 2021 GAO study found that financial institutions "limit or deny services to money transmitters and nonprofit charitable organizations largely because of their efforts to comply with Bank Secrecy Act/anti-money laundering (BSA/AML) regulations."⁴⁹ Similarly, financial institutions' risk assessments often deem cash-intensive businesses, like restaurants, liquor stores, cigarette distributors, and parking garages high-risk despite being legal, even common business ventures.⁵⁰ Thus, the combination of non-enforcement and risk assessment may blunt the impact that the SAFE Banking Act's safe harbor would have on whether financial institutions decide to service cannabis businesses. According to the American Bankers Association, although "some financial institutions have weighed the prevailing climate of non-enforcement and have decided to shoulder the risk in order to serve the needs of their communities, the majority of financial institutions will not take the legal, regulatory, or reputational risk associated with banking cannabis-related businesses without congressional action."⁵¹

In addition to enforcement and reputational concerns, financial institutions cite the high cost of compliance with FinCEN's reporting requirements as a deterrent. It is unclear if, or by how much, these costs would be reduced under SAFE. The SAFE Banking Act establishes that proceeds from a transaction involving activities of a cannabis-related

⁴³ Nichols. American Bankers Association. Ibid.

⁴⁴ Hawkins, Steven W. U.S. Cannabis Council. Letter to U.S. Reps. Ed Perlmutter, Steve Stivers, Nydia M. Velázquez, and Warren Davidson. April 19, 2021. https://perlmutter.house.gov/uploadedfiles/safe_support_letter_from_steve.pdf

⁴⁵ H.R. 1996, "Safe Banking Act of 2021." Ibid.

⁴⁶ BSA Expectations... FinCEN. Ibid.

⁴⁷ "Banking Topic: Risk Management." American Bankers Association. <https://www.aba.com/banking-topics/risk-management#>

⁴⁸ "BSA/AML Risk Assessment." BSA/AML Manual. FFIEC Bank Secrecy Act/Anti-Money Laundering Act InfoBase.

<https://bsaaml.fiec.gov/manual/BSAAMLRiskAssessment/01>

⁴⁹ "Views on Proposals to Improve Banking Access for Entities Transferring Funds to High Risk Countries," from GAO-22-104792. Report to Congressional Committees, U.S. Government Accountability Office, December 2021. <https://www.gao.gov/assets/gao-22-104792.pdf>

⁵⁰ "Risks Associated with Money Laundering and Terrorist Financing: Cash-Intensive Businesses" BSA/AML Manual. FFIEC Bank Secrecy Act/Anti-Money Laundering Act InfoBase.

<https://bsaaml.fiec.gov/manual/RisksAssociatedWithMoneyLaunderingAndTerroristFinancing/29#-:text=Risk%20Factors.currency%20for%20illicit%20criminal%20activities>

⁵¹ Nichols. American Bankers Association. Ibid.

legitimate business shall not be considered proceeds from an unlawful activity.⁵² As such, it should follow that marijuana limited SARs (and the associated excessive compliance costs) should be significantly reduced. Nonetheless, this is not spelled out in SAFE. Rather, SAFE would require FinCEN to update its 2014 guidance to ensure that it “does not significantly inhibit the provision of financial services to a cannabis-related legitimate business.”⁵³ To date, FinCEN has not signaled how it would interpret this mandate, and whether it would continue to require extensive reporting on transactions involving cannabis related businesses.

The SAFE Banking Act would maintain cannabis’ federally illegal status. Consequently, despite safe harbor that would be established by SAFE, financial institutions are likely to continue making risk-based assessments that render the federally illegal cannabis industry more risky than other business ventures, leading to heightened compliance standards and costs. Until more comprehensive policy reforms are achieved, perceptions of risk are likely to be framed by the continued criminal prohibition of cannabis at the federal level, regardless of standalone banking reforms.

Finally, equitable access to banking within the cannabis industry is of particular concern. SAFE could result in increased access to banking overall—though not on the grand scale implied by advocates—while still allowing financial institutions to limit the range and depth of services that they offer to specified and limited categories of persons or businesses within the cannabis industry. For example, to limit perceived risks amidst a nascent, burgeoning and highly-regulated industry still considered illegal at the federal level, some financial institutions could choose to provide certain services exclusively to persons or businesses that are considered most viable. Banks could implement policies where viability is determined in part by evidencing a certain amount of capital, demonstrating an ability to operate across multiple jurisdictions, or business ownership that excludes individuals with any criminal history. Similarly, financial institutions could charge higher services fees to categories of persons or businesses within the cannabis industry that are considered high risk in order to mitigate costs associated with risk management. If financial institutions continue existing patterns and practices, the benefits of expanded access to capital and financial services will disproportionately aid large and well-resourced businesses rather than those owned by minorities and persons who are low income or who have past cannabis convictions—those who were most harmed by cannabis prohibition and its enforcement.

Racial Disparities in the Financial Services Industry

The financial services industry has a long history of racial discrimination that includes the support of the federal government. In the 1930s, around the same time that cannabis use was prejudicially associated with Black and immigrant communities and subsequently criminalized,⁵⁴ the federal government encouraged financial institutions to deny mortgages to people who lived in predominantly Black or immigrant neighborhoods in a practice known as redlining.⁵⁵

“Despite efforts since the 1930s to address inequities in financial services, including the Fair Housing Act, Equal Credit Opportunity Act, and the Community Reinvestment Act, disparities in the financial services industry persist today.”

Despite efforts since the 1930s to address inequities in financial services, including the Fair Housing Act, Equal Credit Opportunity Act, and the Community Reinvestment Act, disparities in the financial services industry persist today.

⁵² H.R. 1996, “Safe Banking Act of 2021,” 117th U.S. Congress (2021–2022).

⁵³ H.R. 1996, “Safe Banking Act of 2021,” 117th U.S. Congress (2021–2022).

⁵⁴ Staples, Brent. “The Federal Marijuana Ban Is Rooted in Myth and Xenophobia.” *The New York Times*, July 29, 2014.

<https://www.nytimes.com/2014/07/30/opinion/high-time-federal-marijuana-ban-is-rooted-in-myth.html>

⁵⁵ Gross, Terry. “A ‘Forgotten History’ Of How The U.S. Government Segregated America.” *Fresh Air*. NPR, May 3, 2017.

<https://www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america>

In 2019, the median net worth of a typical white household, \$188,200, was 7.8 times that of a typical Black household, \$24,100.⁵⁶ Today's racial wealth gap is fueled by disparities in access to capital and financial services for individuals and businesses alike.

In 2021, the Brookings Institution analyzed financial institutions in Black-majority communities and found that Black borrowers and depositors experienced considerable challenges when seeking access to banking services.⁵⁷ According to the group's report, both Black individuals and businesses faced marked disparities, compared to their white counterparts, in access to banking services and deposits, mortgage credit, and small business loans.⁵⁸

The existence of these disparities is further supported by a 2021 Federal Reserve report that found that Black and Latino-owned businesses were less than half as likely as their white counterparts to be fully approved for loan applications during the last year.⁵⁹ Considering the inequities within access to capital and financial services generally, it should come as no surprise that minority cannabis entrepreneurs cite a lack of access to capital and financial services as a major barrier to entering the legal cannabis industry.⁶⁰ The situation is so grim that some proponents of SAFE believe that "even one more Black or Brown entrepreneur getting access to a bank account is an improvement over the status quo."⁶¹

However, individuals concerned about equity in cannabis banking should consider that without additional effort to ensure these discriminatory practices are addressed, it's possible, indeed likely, that Black and Brown communities seeking to participate in the legal cannabis industry will experience the same inequities that are experienced by Black and Brown communities that seek to access financial services generally.

Imagine a scenario where Black and Brown individuals seeking to participate in the cannabis industry have increased "access" to banking services, but, because of unchecked discrimination within the financial services industry, these entrepreneurs have fewer banking options, weaker banking relationships, and lower loan approval rates. They receive lower business credit scores, pay higher interest rates and bank fees, and are subject to more restrictive terms and conditions than their white counterparts. Such a scenario would be, at best, a continuation of the status quo. And it could actually exacerbate disparities.

If the banking industry's approach to cannabis banking is 'banking as usual,' the SAFE Banking Act could rapidly accelerate existing patterns of market domination by multi-state operators⁶² and increased market consolidation⁶³, where large and well-resourced companies, owned primarily by white males⁶⁴, are further enabled to outcompete or acquire smaller and less resourced competitors. However, with amendments that appropriately acknowledge and address these potential consequences, the SAFE Banking Act, could establish a more equitable approach.

⁵⁶ Bhutta, Neil, Andrew C. Chang, Lisa J. Detting, Joanne W. Hsu, and Julia Hewitt. "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances." FEDS Notes. Board of Governors of the Federal Reserve System, September 28, 2020. <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm>

⁵⁷ Broady, Kristen, Mac McComas, and Amine Ouazad. "An analysis of financial institutions in Black-majority communities: Black borrowers and depositors face considerable challenges in accessing banking services." The Brookings Institution, November 2, 2021. <https://www.brookings.edu/research/an-analysis-of-financial-institutions-in-black-majority-communities-black-borrowers-and-depositors-face-considerable-challenges-in-accessing-banking-services/>

⁵⁸ *Ibid.*

⁵⁹ "2021 Report on Firms Owned by People of Color." Small Business Credit Survey, The Federal Reserve Banks. U.S. Federal Reserve System, 2021. <https://www.fedsmallbusiness.org/media/1187/FedSmallBusiness/files/2021/sbcs-report-on-firms-owned-by-people-of-color>

⁶⁰ "National Cannabis Equity Report 2022." Minority Cannabis Business Association, February 2022. <https://mibizdaily.com/wp-content/uploads/2022/02/National-Cannabis-Equity-Report-1.pdf>

⁶¹ Castille, Kalko. Minority Cannabis Business Association. "Cannabis Reformers Can Get SAFE Banking Or Nothing From Congress—Which Is It?" Marijuana Moment, December 8, 2021. <https://www.marijuanamoment.net/cannabis-reformers-can-get-safe-banking-or-nothing-from-congress-which-is-it-op-ed/>

⁶² Smith, Jeff. "US cannabis MSO revenue surges in 2021, fueled by expansions, acquisitions." Marijuana Moment, April 5, 2022.

⁶³ Title, Shaleen. Bigger is Not Better: Preventing Monopolies in the National Cannabis Market (January 26, 2022). Ohio State Legal Studies Research Paper No. 678, Drug Enforcement and Policy Center, 2022. <https://ssrn.com/abstract=4018493>

⁶⁴ "Women and Minorities in the Cannabis Industry." Marijuana Business Daily, 2021. <https://mibizdaily.com/wp-content/uploads/2021/10/MJBizDaily-Women-and-Minorities-in-Cannabis-Report.pdf>

RECOMMENDATIONS TO MORE EQUITABLY ACHIEVE BANKING REFORM

Financial institutions *shouldn't* face federal legal and regulatory consequences solely for providing services to the cannabis industry. The cannabis industry *should* have fair and widespread access to capital and financial services. Racial disparities *shouldn't* exist within cannabis banking. These positions are not mutually exclusive and can and should be addressed concurrently.

Due to SAFE's inability to ensure both that the cannabis industry has access to banking and that such access is equitable, the legislation cannot be expected, in its current iteration, to fix issues of access and equity. As such, advocates should be aware that without immediate and ongoing prioritization, inequities could become worse. Moreover, individuals concerned about equity within cannabis public policy reform more generally should consider what impact Congress's prioritization of SAFE, which fails to explicitly address equity over more equity-centered reforms, could have on efforts to comprehensively acknowledge and address inequities born of the War on Drugs.

“To improve future reforms to cannabis banking, people focused on access and equity should continue to strategize and advocate legislative amendments that better address these challenges.”

To improve future reforms to cannabis banking, people focused on access and equity should continue to strategize and advocate legislative amendments that better address these challenges. We offer the following recommendations to improve the SAFE Banking Act:

RECOMMENDATION 1: Use revenue collected by 280E to create a fund providing capital for businesses owned by people harmed by the War on Drugs.

Access to capital is consistently cited by small and minority-owned cannabis businesses as their most urgent concern⁶⁵ and by proponents of SAFE as a leading problem their bill would fix.⁶⁶ It would therefore be reasonable to assume that the bill's passage would quickly provide loans to the struggling cannabis businesses that need it. But the legislation doesn't do this. As written, SAFE does not create any mechanism to provide capital to disadvantaged businesses, and it's unlikely to improve current dynamics with respect to capital.

But the bill could be amended to do exactly that. Every year, the Internal Revenue Service (IRS) collects billions of dollars in taxes from federally illegal cannabis businesses,⁶⁷ and because Internal Revenue Code Section 280E prohibits those businesses from writing off ordinary expenses and overhead costs that other businesses are allowed,⁶⁸ they pay far more than their fair share. Until that policy is changed, or until marijuana becomes federally legal, that excess tax revenue should be pooled and used to provide forgivable loans for businesses owned by people who have been unfairly targeted by the War on Drugs.

Although it is difficult to estimate the total taxes overpaid by cannabis businesses, the Joint Committee on Taxation estimated in a 2016 letter sent to Senator Cory Gardner claiming that repealing 280E would lower federal receipts by up to \$5 billion over ten years.⁶⁹ For as long as the provision remains in place and the funds collected, they should be used to repair the related harms caused by the federal government's War on Drugs.

⁶⁵ “National Cannabis Equity Report 2022.” *Ibid.*

⁶⁶ Perlmutter, Ed., U.S. House of Representatives. Twitter post, January 28, 2022.

⁶⁷ <https://twitter.com/RepPerlmutter/status/1487182610057117707>

⁶⁸ Smith, Aaron. “IRS collects billions in pot taxes, much of it in cash.” *CNN Business*, January 18, 2018.

⁶⁹ <https://money.cnn.com/2018/01/18/smallbusiness/marijuana-industry-taxes-irs/index.html>

⁷⁰ “Cannabis Industry Frequently Asked Questions.” Internal Revenue Service. <https://www.irs.gov/businesses/small-businesses-self-employed/cannabis-industry-frequently-asked-questions>

⁷¹ Harvey, Robert P. Congressional Joint Committee on Taxation. Letter to U.S. Sen. Cory Gardner, December 1, 2017.

⁷² <https://newtax.files.wordpress.com/2018/12/370531229-Senator-Gardner-280E-Score-12-04-2017.pdf>

RECOMMENDATION 2: As a condition of safe harbor, require financial institutions to demonstrate compliance with anti-discrimination laws such as the Equal Credit Opportunity Act.

Each of the seven times the SAFE Banking Act has so far passed a chamber of Congress, the period before the vote has yielded an explosion of campaigns,⁷⁰ videos,⁷¹ photo ops,⁷² and high-profile media placement⁷³ to make the case that SAFE will address racial disparities in cannabis banking. The bill may not entirely fix the financial system or reverse institutional racism, so the talking points go, but at least it's an incremental step in the right direction.

If the goal is, in fact, to take a small step in the right direction, the best way to create an incremental measure toward justice is to ensure that the direct beneficiaries of the law—banks—only receive the benefit of safe harbor if they demonstrate compliance with existing anti-discrimination lending laws. Existing equal protection measures would be strengthened and reinforced by limiting banking protections to institutions that provide access to financial services for minority-owned businesses under terms commensurate with the terms they offer everyone else.

Fair lending laws are already on the books and intended to level the playing field, but as evidenced by previously described disparities in the financial services industry, they're not working. Giving banks access to the cannabis industry without any additional protections or incentives toward equity will result in the same racial disparities in financial services among cannabis businesses as within other industries, or likely worse, given the federal illegality of the product.

To implement this recommendation, SAFE could be amended to require regulators to add an additional requirement to a financial institution's consumer compliance examination. In addition to a review of policies and procedures, examiners would test the institution's actual lending record for specific types of discrimination such as underwriting or pricing discrimination. A financial institution should be able to affirmatively demonstrate that its loan approval rates for minority-owned legitimate cannabis businesses are commensurate with its rates for other legitimate cannabis businesses. In addition, financial institutions should demonstrate that they offer products and services to minority-owned legitimate cannabis businesses at prices in line with those offered to other legitimate cannabis businesses. When regulators identify inadequate policies and procedures, they can respond with the goal of correcting the issue before a disparity in lending occurs. However, if evidence of discrimination is found, regulators should respond with strong enforcement actions.

RECOMMENDATION 3: Explicitly protect Minority Depository Institutions and Community Development Financial Institutions.

SAFE should explicitly provide protections for MDIs and CDFIs to reduce their perception of regulatory risk when offering commercial loans and transactional services to small, minority-owned CRBs. Congress and federal regulators have long recognized the importance of minority depository institutions (MDIs), financial institutions that primarily serve underserved and disinvested communities, as critical "resources to foster the economic viability of these communities."⁷⁴ According to a February 2022 report, about 45 percent of branches and branch deposits of MDIs are located in counties the Centers for Disease Control and Prevention designates as socially vulnerable and prone to economic, health and safety challenges, including illness and natural disaster.⁷⁵ Given the longstanding commitment of MDIs to the same communities that were targeted by the War on Drugs, it is imperative that cannabis banking legislation explicitly preserve, protect and invest in MDIs.

Section 308 of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 defines an MDI as

⁷⁰ SAFE Banking for Equity. <https://safe4equity.org>

⁷¹ Daines, Steve, U.S. Senate. "A bankers perspective on the Safe Banking Act." YouTube, June 6, 2022. https://youtu.be/_MT0nyVM604

⁷² "Senator Patty Murray Pushes for Passage of Safe Banking Act." U.S. Senator Patty Murray, April 20, 2022.

<https://www.murray.senate.gov/senator-murray-pushes-for-passage-of-safe-banking-act/>

⁷³ Ali, Charlene S. and Adam Ali, HiFive Edible Wonders. "SAFE Banking Will Support Level Playing Field for NY's Cannabis Future." Long Island Press, May 8, 2022. <https://www.longislandpress.com/2022/05/08/opened-safe-banking-will-support-level-playing-field-for-nys-cannabis-future/>

Demko, Paul and Natalie Fertig. "There's no stopping the industry now: Democratic control is a big win for marijuana." Politico, January 31, 2021. <https://www.politico.com/news/2021/01/31/marijuana-policy-democrats-senate-463816>

⁷⁴ "Semiannual Report to the Congress, April 1, 2019 – September 30, 2019." Office of Inspector General, 2019, p. 10.

<https://www.fdicog.gov/sites/default/files/publications/SemiOIG-Oct19.pdf>

⁷⁵ Cetina, Jill, Kelly Klemme, and Michael A. Perez. "Minority Depository Institutions Have Vital Role Serving Vulnerable Communities."

Federal Reserve Bank of Dallas, February 1, 2022. <https://www.dallasfed.org/research/economics/2022/02/01.aspx>

any federally insured depository institution where 51 percent or more of the voting stock is owned by Black American, Native American, Hispanic American, or Asian American individuals. This includes institutions collectively owned by a group of minority individuals, such as a Native American tribe. In addition to the institutions that meet the ownership test, an institution is considered an MDI if the community it serves is predominantly minority and a majority of its board of director positions are held by Black American, Native American, Hispanic American, or Asian American individuals.⁷⁶

FIRREA directs federal regulatory bodies to preserve existing MDIs while encouraging the establishment of new ones. Specifically, the act established the following goals: preserving the number of MDIs; preserving the minority character in cases involving merger or acquisition of an MDI; providing technical assistance to help prevent insolvency of MDIs; promoting and encouraging creation of new MDIs; and providing training, technical assistance, and educational programs for MDIs.⁷⁷

MDIs represent 3 percent of U.S. banks and hold only 1 percent (\$320 billion) of U.S. bank assets. While total assets held by MDIs have grown over the past 10 years, the number of MDIs has decreased by 20 percent, from 186 to 148.⁷⁸ It is imperative that MDIs, as institutions uniquely positioned to repair communities, receive not just safe harbor but also incentives to provide financial services to CRBs. This strategy is beneficial for both MDIs and CRBs, as it would give CRBs better access to business lending and other banking services while simultaneously increasing the assets of MDIs.

In addition to a focus on MDIs, cannabis banking legislation should also explicitly protect and incentivize Community Development Financial Institutions (CDFIs) due to the outsized role they already play in areas of lending that are particularly relevant to the cannabis industry. CDFIs are mission-driven financial institutions that create economic opportunity for individuals and small businesses, quality affordable housing and essential community services. Community development banks primarily provide financial services to low- and moderate-income individuals or communities.⁷⁹ Commercial real estate, small business, and agricultural lending by CDFIs far exceed their relative size within the banking industry overall, according to a 2020 study by the Federal Deposit Insurance Corporation (FDIC). CDFIs hold 30 percent of commercial real estate loans, 36 percent of small business loans and 70 percent of agricultural loans,⁸⁰ which are the very types of financing most needed by cannabis entrepreneurs.

RECOMMENDATION 4: Raise evidentiary requirements and limit enforcement penalties for MDIs and CDFIs for servicing legitimate cannabis businesses.

SAFE should both raise the evidentiary requirements and limit the penalties for enforcement against MDIs and CDFIs to clarify that simply providing services to a cannabis-related legitimate business or service provider should not be considered an unsafe or unsound practice. And enforcement actions should be adjudicated for a violation of law under a clear and convincing evidence standard. These actions may encourage more MDIs and CDFIs to provide services to cannabis-related legitimate businesses.

RECOMMENDATION 5: Expand required federal guidance and reports to promote equity alongside diversity and inclusion.

By expanding SAFE's guidance and reporting requirements to include specific equity-focused measures, SAFE would be better positioned to address equity in the cannabis industry. Although SAFE includes provisions that would require studies and reports focused on minorities and women in order "to promote diversity and inclusion,"⁸¹ SAFE fails to

⁷⁶ "Statement of Policy Regarding Minority Depository Institutions." FDIC Law, Regulations, Related Acts. Federal Deposit Insurance Corporation, 2021. <https://www.fdic.gov/regulations/laws/rules/5000-2800.htm#fdic5000policyso>

⁷⁷ *Financial Institutions Reform, Recovery and Enforcement Act*. H.R. 1278 (1989). § 308, Title III.

<https://www.fdic.gov/regulations/laws/rules/8000-3100.html>

⁷⁸ Cetina, et al. Ibid.

⁷⁹ "Community Development Financial Institution (CDFI) and Community Development (CD) Bank Resource Directory." Office of the Comptroller of the Currency. <https://www.occ.gov/topics/consumers-and-communities/community-affairs/resource-directories/cdfi-and-cd-bank/index-cdfi-and-cd-bank-resource-directory.html>

⁸⁰ "FDIC Community Banking Study." Federal Deposit Insurance Corporation, December 2020. §§ 4–2 <https://www.fdic.gov/resources/community-banking/report/2020/2020-cbi-study-full.pdf>

⁸¹ "SAFE Banking Act." Congressman Ed Perlmutter. <https://perlmutter.house.gov/safe-banking-act/>

acknowledge or address equity, which as a public policy objective is notably distinct from, and equally as important as, diversity and inclusion.

The Biden administration defined the terms in a recent executive order on diversity, equity, inclusion, and accessibility in the federal workforce.⁸² The term “diversity” means the practice of including the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities. The term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment. The term “inclusion” means the recognition, appreciation, and use of the talents and skills of employees of all backgrounds.

Due to racial inequities within the financial services industry and racial inequities in drug policy, which the White House’s 2022 National Drug Control Policy identified as “longstanding” and warranting a “long overdue” “increased focus,”⁸³ specific measures are needed to acknowledge, end, repair and prevent disparities moving forward. Within the context of state and local efforts to license and regulate cannabis businesses, policies and programs to promote equity in the cannabis industry have focused on prioritizing individuals and communities most impacted by cannabis prohibition and its enforcement,⁸⁴ often as evidenced by a cannabis arrest and/or conviction or another factor associated with related harm.⁸⁵ Moreover, decades of data corroborate that these harms were disproportionately suffered specifically by Black, Brown, and low-income individuals and communities.⁸⁶

As such, SAFE’s existing provisions that require data collection regarding minority and women-owned businesses should be expanded to include equity-owned businesses as defined by state and local regulatory programs. By expanding SAFE in this way, SAFE could include and prioritize equity alongside diversity and inclusion and would be better positioned to identify, end, repair, and prevent specific disparities that may be associated with individuals who participate in state and local programs designed to promote equity in the cannabis industry.

Last, SAFE requires the GAO to conduct two studies—one regarding diversity and inclusion, the other regarding the effectiveness of suspicious activity reporting on finding persons engaged with transnational criminal organizations. Currently, SAFE requires the GAO to report on findings in the latter report within two years of SAFE’s enactment, but imposes no deadline for the GAO to report on findings for the report regarding diversity and inclusion. In order to ensure that issues related to diversity, equity and inclusion are not just included but also prioritized, SAFE should be amended to provide a deadline for the GAO’s report regarding diversity and inclusion.

RECOMMENDATION 6: Require federal banking regulators to identify best practices to achieve racial equity in financial services.

As written, SAFE would require federal banking regulators to update guidance for financial institutions seeking to provide services to cannabis and hemp businesses. The bill should be amended to require that federal banking regulators include in both updates information regarding best practices for financial institutions to promote racial equity. By providing information regarding these best practices *before* safe harbor would become effective, financial institutions would have early and clear direction on efforts that can be taken to promote equity and prevent inequities. By seeking to proactively prevent disparities, rather than identifying and addressing disparities after the fact, this approach is likely to have more equitable outcomes than the current approach taken by SAFE.

⁸² Biden, Joseph R., Jr. “Executive Order on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce.” The White House, June 25, 2021. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/25/executive-order-on-diversity-equity-inclusion-and-accessibility-in-the-federal-workforce/>

⁸³ “National Drug Control Strategy.” Office of National Drug Control Policy, Executive Office of the President. The White House, April 2022. <https://www.whitehouse.gov/wp-content/uploads/2022/04/National-Drug-Control-2022Strategy.pdf>

⁸⁴ “National Cannabis Equity Report 2022.” Minority Cannabis Business Association. Ibid.

⁸⁵ Ibid.

⁸⁶ “The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests.” American Civil Liberties Union, June 2013. <https://www.aclu.org/report/report-war-marijuana-black-and-white>

RECOMMENDATION 7: Clarify that cannabis criminal records are not an automatic red flag.

Existing federal guidance, titled, "BSA Expectations Regarding Marijuana-Related Business," identifies red flags that indicate that cannabis businesses may be engaged in activity that violates state law or implicates federal enforcement priorities.⁸⁷ Among the red flags identified is "negative information" such as a criminal record or "involvement in the illegal purchase or sale of drugs."⁸⁸ Given the disproportionate impact that cannabis arrests have had on Black and Brown communities, guidance from FinCEN and regulatory agencies should clearly exclude prior cannabis-related criminal records from being automatically considered a red flag. At the state and local levels, many jurisdictions already explicitly include allowances for individuals with cannabis arrests or convictions to enter the legal industry.

RECOMMENDATION 8: Identify barriers beyond marketplace entry by including barriers experienced before, during, and after the licensure process.

Currently, SAFE would require the GAO to study and report on "the barriers to marketplace entry, including in the licensing process, and the access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses."⁸⁹ However, as minority-owned and women-owned businesses experience barriers that continue beyond entry into the legal marketplace, this study should be expanded to include any barriers that may be experienced before, during, and after the licensure process. Furthermore, this study should include a comprehensive review of state and local efforts to identify and address related barriers and direct engagement with both cannabis and hemp regulators and cannabis and hemp business owners.

RECOMMENDATION 9: Study and report on diversity, equity, and inclusion in the hemp industry, as well as the cannabis industry.

Currently, the SAFE Banking Act only requires that the GAO and federal banking regulators study and report on information and data on the availability of access to financial services for minority-owned and women-owned businesses within the cannabis industry.⁹⁰ SAFE should be amended to require that the GAO and federal banking regulators collect data related to minority-owned, women-owned and equity-owned businesses within the hemp industry as well. Similarly, SAFE should be amended to require the GAO to conduct a study on the barriers to marketplace entry, including in the licensing process, and the access to financial services for potential and existing minority-owned, women-owned and equity owned hemp-related legitimate businesses and issue a report to Congress regarding the study's findings as well as any regulatory or legislative recommendations.

RECOMMENDATION 10: Promote compliance with state and local regulatory requirements regarding business ownership.

Studies and reports mandated by SAFE should acknowledge that the definition of ownership varies at the state and local levels, which may impact assessments of whether or not businesses are truly "owned" by minorities and/or women.

SAFE should also be amended to require that if, during the course of its customer due diligence, a financial institution discovers that a CRB's ownership is not compliant with state and local law or regulations, the financial institution must report the discrepancy to the state and/or local regulatory authority. This amendment would help promote compliance with state and local regulatory requirements regarding business ownership, including ownership requirements related to programs designed to acknowledge and address harms of cannabis prohibition and its enforcement and to promote equity within the cannabis industry.

⁸⁷ "BSA Expectations..." FinCEN. Ibid.

⁸⁸ Ibid.

⁸⁹ H.R. 1996, "Safe Banking Act of 2021." Ibid.

⁹⁰ H.R. 1996, "Safe Banking Act of 2021." Ibid.

CONCLUSION

The continued criminalization of cannabis at the federal level, coupled with an increasing number of states authorizing medical or adult-use cannabis activity, has resulted in an ever-widening policy gap⁹¹ between federal and state cannabis laws. However, due to cannabis's widely accepted medical use,⁹² existing state and local efforts to authorize, license and regulate cannabis for medical and adult-use,⁹³ and bipartisan support from the American public regarding cannabis legalization,⁹⁴ many believe that it is no longer a matter of 'if' or 'when' this gap will be addressed, but 'how'.⁹⁵

This gap continues to unnecessarily put millions of stakeholders at legal risk and fuels racial disparities in drug policy that the president's 2022 National Drug Control Strategy identifies as a "longstanding problem affecting both public health and public safety."⁹⁶ Therefore, the widely-impactful public policy decision on how to address this gap requires a comprehensive plan that includes and prioritizes equity. However, amidst the many stakeholders who continue to be harmed by federal cannabis prohibition, and the enumerable challenges caused by a widening policy gap, there is increasing pressure⁹⁷ and speculation⁹⁸ that Congress might prioritize financial institutions' concern of federal legal and regulatory consequences that have never materialized over other desperately needed and long-overdue reforms. As such, people concerned about equity within cannabis public policy reform generally should consider what impact Congress' prioritization of SAFE rather than equity-centered reforms could have on efforts to comprehensively acknowledge and address inequities born of the War on Drugs.

Ongoing efforts are needed to evaluate all cannabis-related legislation based on whether or not it acknowledges, addresses, and centers individuals who are least resourced and most impacted (or most likely to be impacted) and the impact on those individuals when their issues are not acknowledged, addressed or centered. According to the Government Alliance on Racial Equity, "Too often, policies and programs are developed and implemented without thoughtful consideration of racial equity. When racial equity is not explicitly brought into operations and decision-making, racial inequities are likely to be perpetuated."⁹⁹ The alliance recommends the use of an institutional approach that "identifies who will benefit or be burdened by a given decision, examines potential unintended consequences of a decision and develops strategies to advance racial equity and mitigate unintended negative consequences."¹⁰⁰

In the context of SAFE, financial institutions are not only the most-resourced stakeholders involved in the current push for cannabis-related reforms, but are also, due to federal enforcement priorities, amongst those that are least likely to be subject to legal consequences. Yet, for some policymakers, this tops the priority list.

Meanwhile, even if the bill becomes law, cannabis possession and cannabis business will remain federally criminalized. Cannabis arrests and criminal records will continue to cause unnecessary harm. Efforts to research and regulate cannabis will be stifled, continuing to prevent veterans, patients, and consumers from accessing legal, tested products. And, alas, issues related to access and equity within cannabis banking will remain.

Amidst the many stakeholders who continue to be harmed by federal cannabis prohibition, and the enumerable challenges caused by a widening policy gap, Congress will decide whose harms and which harms get addressed first on the road to federal cannabis reform. The decision is likely to have long-lasting implications for future reforms at the federal, state, and local level. Though speculation regarding federal cannabis policy reform has largely focused on

⁹¹ "The Evolution of Marijuana as a Controlled Substance and the Federal-State Policy Gap." Ibid.

⁹² "Examining the 2022 National Drug Control Strategy and the Federal Response to the Overdose Crisis." U.S. House Committee on Oversight and Reform, June 27, 2022. <https://oversight.house.gov/legislation/hearings/examining-the-2022-national-drug-control-strategy-and-the-federal-response-to>

⁹³ "The Evolution of Marijuana as a Controlled Substance and the Federal-State Policy Gap." Ibid.

⁹⁴ "Support for Legal Marijuana Holds at Record High of 68%." Gallup, November 4, 2021. <https://news.gallup.com/poll/356939/support-legal-marijuana-holds-record-high.aspx>

⁹⁵ Packer, Cat. "The Role of Social Equity in Cannabis Policy Reform." Chapter 7, Cannabis Law Deskbook, 2021–2022 ed. Thomson Reuters, 2021.

⁹⁶ "National Drug Control Strategy." Office of National Drug Control Policy, Executive Office of the President. The White House, April 2022.

⁹⁷ "SAFE Banking Act." Congressman Ed Perlmutter. Ibid.

⁹⁸ Jaeger, Kyle. "Marijuana Banking Reform Will Not Be Enacted As Part Of Manufacturing Bill, Congressional Leaders Agree." Marijuana Moment, June 23, 2022. <https://www.marijuanamoment.net/marijuana-banking-reform-will-not-be-enacted-as-part-of-manufacturing-bill-congressional-leaders-agree/>

⁹⁹ "Racial Equity Toolkit: An Opportunity to Operationalize Equity." Local and Regional Government Alliance on Race and Equity, September 2015. <https://www.racialequityalliance.org/resources/racial-equity-toolkit-opportunity-operationalize-equity/>

¹⁰⁰ Ibid.

the tension between "the dueling pushes"¹⁰¹ of more comprehensive reform like the Cannabis Administration and Opportunity Act¹⁰² and more limited, incremental reforms like the SAFE Banking Act, due to the panoply of harms and inequities perpetuated and exacerbated by cannabis prohibition, all legislation can and should be written and implemented in a way that centers and promotes equity. In order to do so, however, policymakers must be willing to prioritize equity as a public policy objective. As such, regardless of whether Congress decides to pass cannabis banking reform as a part of more comprehensive cannabis policy reform or as a standalone issue, Congress should ensure that any legislation related to cannabis banking reform includes explicit provisions that seek to ensure fair and equitable access to financial services for all in the cannabis industry. Until the SAFE Banking Act is amended to include such provisions it should not be considered a safe bet to achieve equity in cannabis banking.

¹⁰¹ Jaeger, Kyle. "New Details On Congressional Marijuana Omnibus Bill Emerge As Lawmakers Work For 60 Senate Votes." Marijuana Moment, June 10, 2022.

¹⁰² S. 4591 - 117th Congress (2021-2022): Cannabis Administration and Opportunity Act, S. 4591, 117th Cong. (2022).
<http://www.congress.gov/>

**RESPONSE TO WRITTEN QUESTION OF CHAIR BROWN
FROM ADEMOLA OYEFESO**

Q.1. Mr. Oyefeso, can you discuss how businesses that do not directly work with cannabis but provide products or services to legal cannabis businesses, such as gardening or construction companies, might also have their banking impacted by the Federal status of cannabis? How does this affect the workers of these businesses?

A.1. UFCW represents workers who work directly for cannabis-related businesses and not ancillary businesses. Our members can be found in growing and cultivating facilities, in manufacturing and processing facilities, as well as in laboratories and dispensaries. The people who grow, process, test, distribute, and sell cannabis deserve a fair and safe workplace like any other worker in America.

UFCW has established a cannabis apprenticeship program and been limited by the national banking laws. We are not able to take the program national, because of limits on interstate banking. UFCW believes all jobs in the cannabis industry should be family sustaining with good wages, benefits, and opportunities for advancement at every level from seed to sale. These jobs should have the skills and training that build the public and consumers' confidence in both the safety of the product and industry as a whole. One of the building blocks to achieve this is the professionalization of work in the industry through the establishment of cannabis industry apprenticeships. Training through apprenticeships ensures workers in this emerging industry have the skills and training required to be successful in the field. The SAFE Banking Act will enable UFCW to grow our apprenticeship program to meet the needs of workers, the industry, and the community.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR MENENDEZ FROM ADEMOLA OYEFESO**

Q.1. Multiple surveys have shown that the cannabis industry is largely White and male dominated. Minority groups that disproportionately lack access to credit and preexisting relationships with banks and regulators face extra challenges in an industry like cannabis where financial service access is sharply limited and regulatory burdens are high.

Would passing SAFE Banking reduce barriers to entry and make the cannabis industry more equitable?

A.1. Cannabis banking is an equity issue. Since banks cannot loan money to CRBs you need to either self-capitalize or have access to capital—two things which prospective minority business owners have traditionally had less access to than their White, male counterparts.

Many of the States legalizing cannabis have developed licensing schemes designed to meet the specific State's needs and policy goals including strong social equity provisions. Federal permitting, taxation, or regulation should build upon State laws rather than set a single Federal standard. It is important that Federal legislation preserve the State-based nature of the industry as much as possible. This will allow States to continue to regulate the industry in a way that respects established laws and community standards.

Equity is an empty and hollow phrase unless it is made real and meaningful to the majority of working people living in those communities that were harmed by the war on drugs. The discussion of equity in the cannabis space is more than about who owns these businesses, but about all of the stakeholders—especially the industry’s workers. The greatest benefit of cannabis banking will not come from creating a handful of successful, wealthy business owners of color, but from fostering a pipeline of good paying jobs throughout the cannabis industry that are widely available to persons from impacted communities. And equity cannot be achieved as long as we bar workers from traditional banking. This creates another race and class-based barrier of entry for workers.

Q.2. Without access to traditional banking services, cannabis enterprises are forced to operate entirely in large sums of cash. As a result, news reports from the last few years have shown an uptick in armed robberies at cannabis dispensaries.

What safety risks does forcing marijuana businesses to operate exclusively with cash raise for workers, businesses, and the broader community?

A.2. Miranda Beck, a cannabis worker at Starbuds in Baltimore, Maryland, told us a story of a security guard and a worker who were robbed of cash and cannabis product at gunpoint. She said:

It’s well known that there is a lot of cash inside dispensaries because dispensaries can’t accept credit cards. At Starbuds we were also paid in cash—each week we would have to go in (even on our days off, which was hard for some people without their own cars) to collect an envelope with our wages.

They took taxes out, but we were paid in cash—so were the vendors. I worried about safety at work every day—not just for myself and my coworkers, but our patients.

Some patients were robbed in the parking lot when they were coming in to buy their medicine.

One UFCW local leader in California notes: “The lack of regulation and security measures in the cannabis industry also puts delivery drivers at risk, as they may not have access to proper training or protective equipment. Without banking, our cannabis delivery driver members carry large amounts of cash and valuable products, making them a prime target for robbery and assault.”

Cannabis workers, like every other business venture, deserve the same right to work in safe conditions. SAFE Banking is one very easy way to make our worksites safer, by allowing them to take debit and credit card transactions and thus not being such tempting targets for theft.

Q.3. Illegal cannabis operations pose a serious public health risk. A study from the New York Medical Cannabis Industry Association found that 40 percent of cannabis products from illicit stores in New York City contained harmful contaminants, such as E. Coli, lead, and salmonella.

Will allowing legitimate marijuana businesses, which abide by State and local health and safety regulations, access to banking and insurance services mitigate some of these safety concerns?

A.3. UFCW has experience in well-regulated industries, like meat processing. We know that treating cannabis as a regulated, age-restricted, legal consumer product will protect the industry and its workers. Operating in a legal gray area is not good for consumers, workers, and businesses.

Currently legal cannabis businesses have the oversight and accountability of any other business, without all of the financial tools and resources. Cannabis-related businesses should have access to conventional financial services and the oversight that comes with it, so that the businesses, as well as the workers, will have the tools to ensure a safe product and safe working environment.

**RESPONSE TO WRITTEN QUESTION OF
SENATOR FETTERMAN FROM ADEMOLA OYEFESO**

Q.1. I have heard stories from union members and leaders who have significant safety concerns about working conditions in cannabis-related businesses. Can you elaborate on this and speak to potential solutions to their concerns?

A.1. Cannabis workers throughout the industry chain are exposed to a large number of hazards and risks—many of which are still not fully known. Cannabis employees work with high-intensity UV lights that can harm skin and eyes; with CO₂ and other gases which become poisonous without constant monitoring; and with pesticides and other chemicals. Cannabis employees are also exposed to mold, heat stress, dust, aerosols, flammable solvents, toxic gases, and other volatile chemicals and fire hazards. Finally, workers risk physical safety when their place of business is cash only, making them a greater target for crime.

As for solutions, Congress should ensure that the highest possible workplace safety standards are set in this industry. Congress should:

- Allow OSHA to immediately start work on a national workplace safety standard for legal cannabis business, using the regulations set by California as a model.
- Fund longitudinal studies on the long-term effects of exposure to the chemicals involved with growing, processing, and selling cannabis.
- Give the Department of Agriculture the ability to set standards for the use of pesticide application.

Pass SAFE Banking to protect cannabis workers and businesses from the violent crime all cash businesses attract.

**RESPONSE TO WRITTEN QUESTION OF CHAIR BROWN
FROM CAT PACKER**

Q.1. Ms. Packer, when small cannabis businesses do find banks and credit unions that are willing to provide financial services to them, they sometimes have to pay exorbitantly high fees and encounter other barriers. Can you talk about why this is and how it can impact small cannabis businesses and their workers?

A.1. Response not received in time for publication.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR MENENDEZ FROM CAT PACKER**

Q.1. Under current law, State authorized cannabis business are not only locked out of the banking system, they are unable to obtain necessary insurance products such as workers compensation, property, casualty, and title insurance. This is a problem that needs to be fixed in order to ensure these businesses have access to the full range of financial services they need to run a business.

Does lack of access to insurance negatively impact or even outright prevent business owners from obtaining bank financing?

A.1. Response not received in time for publication.

Q.2. According to estimates from cannabis data firm New Frontier Data, the national market for illicit marijuana is worth around \$60 billion, twice as much as the legally regulated market.

What are the consequences for legally operating businesses when a large portion of the market is operating illegally?

A.2. Response not received in time for publication.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR FETTERMAN FROM CAT PACKER**

Q.1. The SAFE Banking Act is a crucial first step, but it can't be the last. What do you see is the next step towards legalization after the SAFE Banking Act?

A.1. Response not received in time for publication.

Q.2. I believe expungement is crucial. Too many Americans have had their lives derailed because of a nonviolent marijuana conviction. My understanding is that even if the SAFE Banking Act were to pass, there would be potential problems when it comes to business owners who have previously been convicted of marijuana-related charges having access to financial services—even if these charges have been expunged. Can you speak more to this potential problem? And what we can do to prevent it?

A.2. Response not received in time for publication.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD



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Washington, DC

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Testimony of Paul Armentano, Deputy Director:

National Organization for the Reform of Marijuana Laws

in support of:

The Secure and Fair Enforcement (SAFE) Banking Act

My name is Paul Armentano and for the better part of the past three decades, I have worked professionally in the field of cannabis policy. I have authored several books on this topic, and my writing has been featured in over two-dozen academic anthologies. I have testified on these matters before numerous state legislatures and federal agencies and at various academic and legal symposiums. Last November, I testified¹ before members of the United States House of Representatives, Subcommittee on Civil Rights and Civil Liberties at a hearing entitled, "Developments in State Cannabis Laws and Bipartisan Cannabis Reforms at the Federal Level."

I currently serve as the Deputy Director for the National Organization for the Reform of Marijuana Laws (NORML). NORML is the nation's oldest and largest non-profit advocacy organization advocating on behalf of the interests of responsible adult cannabis consumers.

NORML believes that the advancement of the Secure and Fair Enforcement (SAFE) Banking Act is crucial to the health and safety of the tens of millions of consumers who patronize state-legal cannabis markets. That is because, under current federal law, the multi-billion-dollar state-legal cannabis market² must operate largely as a cash-only business. This makes state-licensed cannabis businesses more susceptible to theft and more difficult to audit. It also places the safety and welfare of their customers at risk, as patrons must carry significant amounts of cash on their persons to make legal purchases

¹ <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115185>

² According to an analysis by the Marijuana Policy Project, taxes derived from state-legal retail sales of adult-use cannabis products in 2022 totaled some \$3.8 billion dollars. Since 2014, these sales have generated over \$15 billion in tax revenue.



National Organization for the Reform of Marijuana Laws
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at retail facilities. Similarly, it needlessly jeopardizes the safety of retail staffers, who are susceptible to robbery.³

To date, 22 states permit retail cannabis sales to adults and 38 states authorize the sale of medical cannabis products. Yet, these tens of thousands of state-licensed businesses continue to struggle⁴ to legally obtain a bank account because of outdated federal policies.

Every day that Congress fails to act further endangers small businesses and consumers, puts regulators and law enforcement at a disadvantage, and facilitates the activities of unlicensed operators and criminal organizations. Survey data compiled last year by Whitney Economics reported that over 70 percent of participating cannabis businesses say the “lack of access to banking or investment capital” is their top challenge.⁵

Passing the SAFE Banking Act will address these problems. That is why it is supported by businesses, voters, and civil rights groups. For example, polling data published in November 2022 showed that 72 percent of voters – including nearly two-thirds of Republicans – support allowing licensed cannabis businesses to lawfully access US financial systems.⁶ The NAACP also backs this legislative change, stating, “The SAFE Banking Act could enable cannabis businesses with social equity licenses, diverse ownership licenses, or other licenses made available by states with medical- and adult-use cannabis laws that aim to foster a diverse and equitable industry, to better compete in the industry.”⁷

In short, no industry can operate safely, transparently, or effectively without access to banks or other financial institutions and it is self-evident that the players in this industry (smaller and minority-owned businesses in particular), and those consumers that are served by it, will remain severely hampered without better access to credit and financing. Ultimately, Congress must amend federal policy so that these growing numbers of state-compliant businesses, and those millions of Americans who patronize them, are no longer subject to policies that undermine their ability to conduct transactions safely and successfully.

³ NPR. “Pot shop robberies are fueling calls for a US banking bill,” April 20, 2022.

⁴ According to statistics provided by the US Treasury Department, only about 11 percent of all US banks and about 4 percent of all US credit unions are “actively providing banking services to marijuana-related businesses.”

https://www.fincen.gov/sites/default/files/shared/305326_MJ%20Banking%20Update%204th%20QTR%20FY2021_Public_Final.pdf

⁵ <https://www.benzinga.com/markets/cannabis/22/01/25324529/survey-72-of-cannabis-operators-say-lack-of-banking-is-biggest-problem-even-fewer-are-making-pro>

⁶ <https://www.dataforprogress.org/blog/2022/11/28/a-majority-of-voters-support-the-provisions-of-the-safe-banking-act>

⁷ <https://norml.org/blog/2022/10/24/naacp-calls-for-the-immediate-passage-of-safe-banking-legislation/>



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May 9, 2023

The Honorable Sherrod Brown
Chairman
U.S Senate Committee on Banking,
Housing, and Urban Affairs

The Honorable Tim Scott
Ranking Member
U.S. Committee on Banking,
Housing and Urban Affairs

Re: Secure and Fair Enforcement ("SAFE") Banking Act

Dear Chairman Brown and Ranking Member Scott:

It is our understanding that the Senate Committee on Banking, Housing and Urban Affairs has scheduled a hearing on May 11th related to S. 1323 –SAFE Banking Act of 2023, entitled "Examining Cannabis Banking Challenges of Small Businesses and Workers". While it is important that the Committee focuses on the challenges confronting small businesses and workers, we believe it is also critical that the Committee pays attention to the unintended consequences to the health and safety of our communities where access to cannabis products will be expanded exponentially if this legislation is enacted in its current form.

The sponsors of the bill have stated that their purpose in introducing this legislation is to address the dangers to communities caused by the inability of legal cannabis businesses to have access to financial services. Such access, they believe, would help keep their employees, businesses, and communities safer from robberies, money laundering and organized crime. Unfortunately, the bill fails to address the dangers to our children and other vulnerable populations caused by more readily available high potency cannabis products on the market.

One Chance to Grow Up is a non-partisan, non-profit organization that has been actively engaged in marijuana policy and education for the past ten years. Our sole focus has been ensuring there are robust regulations to help curb the negative consequences of marijuana commercialization on America's kids. These harms are a clear and present danger as THC potencies have skyrocketed and kid friendly products and methods of intake have expanded across the country.

We strongly recommend that at a minimum the Committee should include provisions that will address child/youth safety measures and THC transparency standards. There is ample precedent for the Committee addressing human safety issues through banking regulation. Our specific safety recommendations and supporting national data are included in Appendix A. They are based on our years of our policy work and collaboration with highly reputable health experts, health and youth serving organizations, and over 10,300 concerned parents from throughout the United States.

We are available to discuss in detail our recommendations with the Committee and would respectfully request that this letter and attachments be included in the record of May 11th hearing.

Sincerely;

Doug Robinson
Chairman of the Board

Attachments: Appendix A: Safety Recommendations and Supporting Data

Appendix A: Safety Recommendations & Supporting Data

Background Information:

National policies have failed to keep up with the innovations of today's new and radically different ultra-potent THC products. This has left the public and children unprotected while creating tremendous confusion and misinformation. Our nation's young people remain at greatest risk as their brains are still developing.

Federal safeguards to minimize negative impacts to kids do not exist. THC commercialization across the country has exploded to include products containing ultra-potent THC sold in highly concentrated amounts.

At a minimum, child safety and THC transparency safeguards should include:

- Ban on kid-friendly products and flavorings
- Packaging and Safety Disclosures
 - Require:
 - child resistant packaging
 - THC warning symbol
 - limits on serving size (potency & weight) and amount per package or container
 - health and safety disclosures on packaging and advertising
 - restrictions on advertising and marketing that reaches kids
 - monitoring and reporting of false claims
- High-priority data collection on physical and mental health impacts of THC on the developing brain

Why these basic safety measures are urgently needed:

Negative mental and physical health impacts from today's lack of THC transparency and youth safeguards are growing. As a result, our nation's young people are suffering terrible consequences and remain at undue risk.

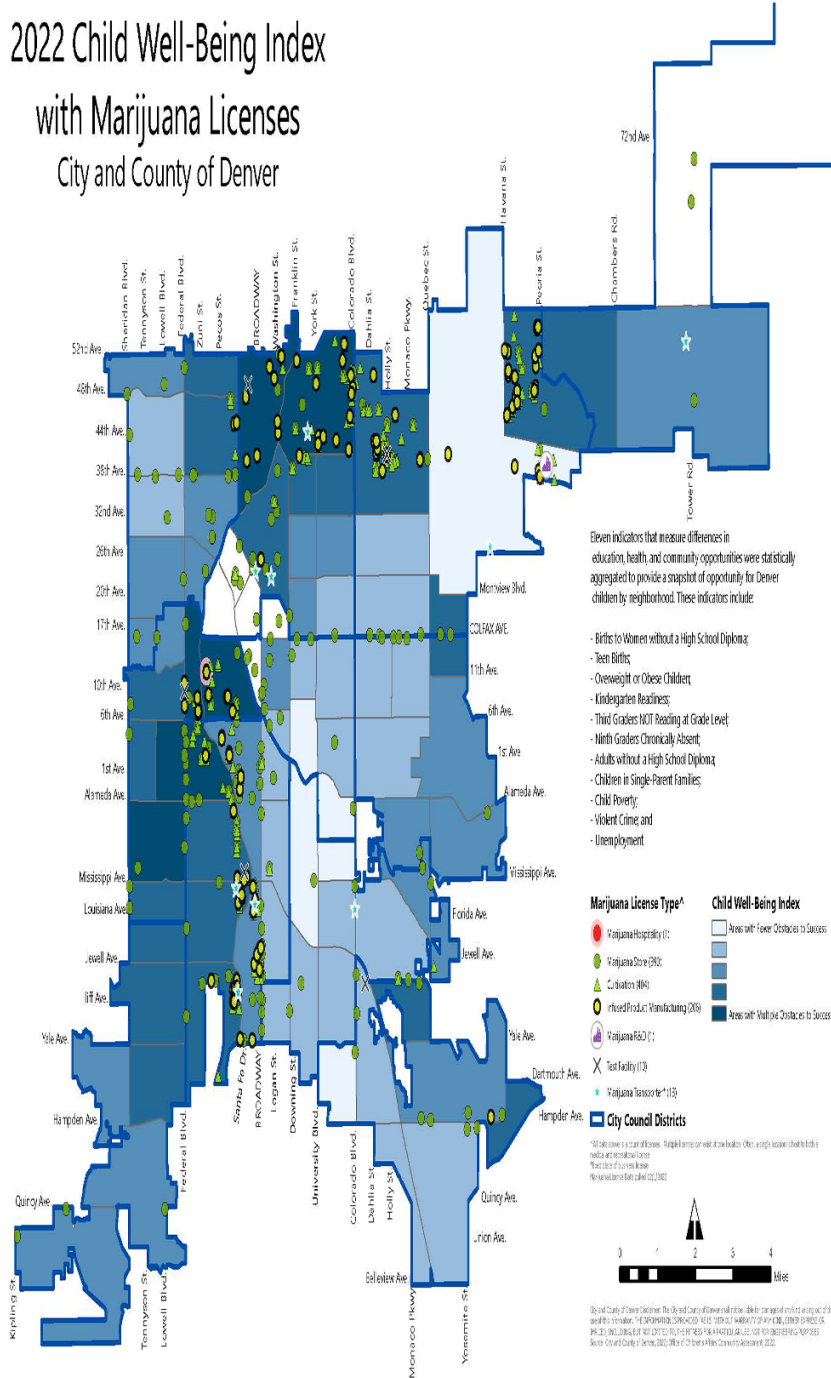
Data on negative impacts include:

- One in three national marijuana unintended exposures involves kids. Symptoms reported include: agitation, slow heartbeat, fever, coma, nausea/vomiting, stupor, tremor and seizures (US National Poison Control Data, JAMA). [Recent news](#) coverage has reported on the death of children from eating their caregivers' edibles.

- [THC vaping increased in all grades nationally](#) with a reported doubling of THC vaping among high school seniors. This was the largest youth use increase ever reported for a substance other than nicotine vaping (2019 Monitoring the Future National Youth Survey).
- The National Institute of Drug Abuse reports 22% of adolescents (<18 years old) and 19% of young adults (18-24 years old) report marijuana use while today's marijuana has become a stronger drug; this can harm the brain, which is growing until age 25.
- The U.S. Surgeon General recently issued a rare [Public Health Advisory Warning](#) and Call to Action on Youth Mental Health Crisis (12/8/2021) reporting that "anxiety, depression and suicide attempts are up over 50%".
- Research shows THC use can lead to: psychotic symptoms and/or psychotic disorders including schizophrenia, mental health symptoms and/or problems including anxiety, depression, and suicidal ideation, cannabis hyperemesis syndrome (uncontrolled vomiting), and cannabis use disorder/dependence, including physical and psychological dependence ([2019 CDPHE "THC Concentration Report"](#) and included studies, "Use of Regulated Marijuana Concentrate" 2021 Marijuana Enforcement [Educational Resource](#), 2019 JAMA Psychiatry).
- A 2021 report by the [Senate on International Narcotics Control](#) summarized that daily use of cannabis containing 10% or more THC increases chance of developing psychosis almost five times compared to non-users while researchers suggested that if cannabis potency were capped, the incidence of psychosis and other negative mental health disorders could be reduced (p.22). The Netherlands does not allow legal THC commercialization, considers any marijuana over 15% THC potency a "hard" drug, and limits marijuana purchase amounts.
- In Colorado, the state with the longest experience with THC commercialization, THC is now overwhelmingly the #1 substance found in toxicologies conducted on completed suicides for ages 10-24. Youth suicide rates have increased dramatically and remain among the highest in the country ([Colorado Department of Public Health and Environment](#)).

- Emerging research shows the #1 [contributor to future opioid use](#) disorder is marijuana use before the age of 18 (Drug and Alcohol Dependence 2020).
- [Marijuana is the most widely used drug during pregnancy](#), according to the National Institute of Drug Abuse (NIDA). From 2008-2016 self-reported pregnancy use increased from 4% to 7% while NIDA reports that those numbers may under-report use, based on rates when screens were obtained.
- [A 2018 study found 69% of 400 Colorado marijuana dispensaries](#) surveyed (both medical and recreational) were recommending marijuana to pregnant women. Harms include reduced fetal growth, greater risk of stillbirth, preterm birth, low birth weight, and long-term brain development issues affecting memory, cognition and behavior (Substance Abuse and Mental Health Services Administration).
- Negative impacts of commercialized THC are often concentrated in neighborhoods already facing serious challenges including high levels of poverty and crime, causing new and additional inequalities, as visualized in the attached *2022 Child Well-Being Index with Marijuana Licenses, City and County of Denver*.
- Substance use and abuse by a caregiver can have a significant role in adverse childhood experiences/trauma, according to the Adverse Childhood Experiences ([ACE Study](#)), the largest national investigative childhood study linking childhood maltreatment and health and wellness later in life.
- Exposure to commercialization: [A Rand report on research out of California](#) shows that young people aged 18-22 who live in neighborhoods with more sales outlets and storefront signage use marijuana more frequently than their peers and have a more positive view of the drug.
- [Another California study](#) found that adolescents that reported higher than average exposure to marijuana advertising also tended to report greater marijuana use and adolescents that reported increasing exposure to marijuana ads over the seven-year study period also reported increases in their marijuana use.

2022 Child Well-Being Index with Marijuana Licenses City and County of Denver



DANGEROUS DELAYS

What Washington (Re)Teaches Us About
Cash and Cannabis Store Robberies



by David Borden, for
StoptheDrugWar.org
December 8, 2022

<https://stopthedrugwar.org/delays>

EXECUTIVE SUMMARY

Dangerous Delays is the first published study on the characteristics of cannabis store robberies. The report was motivated by recurring reports of assaults on workers that follow a pattern: Robbers force workers to the back of the store, demanding they open the safe to obtain secured cash. Workers don't always know the combination, and robbers don't always believe them.

Dangerous Delays was also motivated by Congress's renewed attention on the SAFE Banking Act this year, and by disagreements among legislators and advocates which delayed SAFE in the Senate last year. Those debates, while focused principally on social equity concerns, saw arguments made that had the effect of casting doubt on the role of cash in driving robberies of cannabis stores, or of the significance of cannabis store robberies as a whole.

While SAFE was stalling in the Senate, Washington State's cannabis community was in the grip of an unprecedented surge in armed robberies of cannabis stores. This occurrence, which began in November 2021 and lasted 4 ½ months, saw nearly 100 reported robberies affect roughly 80 cannabis stores, and ended with three people dead.

Uncle's Ike's, a Seattle-based cannabis store chain, since 2017 has compiled robbery reports, and some burglary reports, in the "Uncle Ike's i502 Robbery Tracker." This unique resource is what enabled us to carry out the research done for this report.

Our analysis confirms that cash dominates as the target for cannabis store robberies. Product also plays an important role, but almost always in combination with cash; whereas cash on its own gets targeted close to 50% of the time, based on the incidents for which we could determine what was targeted. Most burglaries, by contrast, appear to only target product.

In light of the pattern of assaults on workers described above, we classified robberies according to whether robbers targeted the back of the store, or limited their attention solely to the front. We also classified robberies according to four observed types of aggression that occur during armed robberies, which go beyond the minimum level of aggression inherent in robbery.

Using statistical correlation measures, we found for the time period of the surge that robberies targeting the back of the store involved elevated aggression more often, and exhibited a larger average number of different aggression types, compared with robberies limited to the front of the store. Examination of individual incidents confirmed that in the great majority of cases, back of the store robberies only target the safe.

We also found, however, that weapons fire during cannabis store robberies is complex. The two worst shootings during the Washington surge were driven in part by the robbers' pursuit of cash, but also by physical altercations having ensued between robbers and the workers who were shot.

Examination of issues that naturally came up while exploring this topic point to understandings which highlight the urgency of passing SAFE Banking, but also of ways that SAFE on its own may fall short of achieving the full remedy needed by businesses and workers.

One is that the decline in cash usage in our society during recent decades, has resulted in a smaller number of targets for potential robbers. This means that the businesses which are still lucrative for them, because of the presence of valuable merchandise or cash or both, are more likely to be targeted, all else being equal. The timing of the Washington surge suggests this larger and not likely to be reversed change that affects the priorities of robbers, may have played a role. In the absence of effective preventative measures, a surge could happen again, in Washington or elsewhere.

Second, reports of cannabis store robberies seem to come out of western states far more often than eastern states. A plausible explanation is stores in the east are better able to financially afford effective security measures. In the west, there are many more stores per capita than in the newer cannabis states in the east, meaning more competition, which has brought down prices and profit margins, and has done so for many more years. This also means less average business and cash flow per store in the west. A higher proportion of stores in the east are part of larger businesses, and would have more financial resources to bring to bear as needed for that reason. Reducing costs for the industry as a whole – which SAFE is likely to be helpful for – can free up cash flow for small businesses to spend more on security and other needs.

Third, observers in banking, or who are close to transaction processing for the cannabis industry, are skeptical that the language in SAFE, which focuses solely on bank depository relationships, will allay the concerns that have kept credit card processing networks from serving the cannabis industry. If not, this will keep even debit card processing in a place where it will continue to be expensive, not always reliable, and marginally legal, limiting customers' transitioning to electronic purchase options. However, we do see a variety of ways in which passage of SAFE is likely to reduce cash prevalence and be of help. Congress and regulators should move quickly to make further changes that explicitly address the concerns of credit card networks, and other transaction processors that make use of those networks.

We finally lay out a framework for assessing whether a truly substantial move away from cash for purchases would have the effect of stopping cannabis store robberies. We see reasons to believe that robberies would be reduced, if not burglaries. However, removing cash from cannabis stores will itself represent a change in the socioeconomic situation experienced by potential robbers. How their incentives will change in response, and whether product-only robberies could become more of a draw than they are today, only time will tell.

Security, worker training, and likely other factors, will continue to have importance for cannabusinesses, regardless of what happens with SAFE or further measures. But cash needs to be dealt with, and SAFE has to pass for that to happen. In the meanwhile, the cannabis communities in other states can help, by duplicating the tracking effort pioneered in Washington by Uncle Ike's.



Armed Robbery at Green Theory – Factoria, 3/16/22¹



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INTRODUCTION

Escalation to Tragedy

A little before midnight on 12/19/21, four robbers entered Floyd's Cannabis in Port Angeles, Washington. After ordering people to the ground, they told the manager to get them cash from the store's safes. The manager was able to open one of the store's two safes, but not the other. The robbers threw him to the ground and hit him with a gun.²

Late on 12/24/21, three robbers entered a retail cannabis store in Seattle's South Precinct, where they ordered employees to get cash for them from the safe. The employees were unable to open it, prompting robbers to assault two of them.³

On the afternoon of 2/22/22, three young people wearing masks and brandishing guns robbed an establishment in Federal Way, Washington. One, 16-year-old Montrell Hatfield, held the manager at gunpoint and forced him to the back of the store. The manager opened the safe and gave Hatfield \$20,000 cash plus some jewelry. Hatfield struck the manager on the face with his gun anyway, saying "I know you have more, (expletive)."⁴

The Federal Way establishment was a pawn shop, not a cannabis store. Very unfortunately, it was not Hatfield's only robbery.

The Rise and Delay of the SAFE Act

One of the arguments for drug legalization is that removing the trade from the criminal underground would reduce crime. One way in which it's hoped it would do so is by reducing the presence of cash, a traditional robbery target. Financial service providers in the US have been slow, however, to embrace the state-legalized but still federally illegal industry.⁵ When they do serve the industry, it tends to be complicated. And so cash reliance in cannabis stores, and at some other levels of the industry, has remained extensive.

The incidents described above reflect a pattern that's recurred through the years, in which cash or its expectation appears to drive robberies and assaults: Robbers want store employees to get them cash from the safe, but employees don't always know the combination, and robbers don't always believe them. A particularly disturbing variation was reported from California in 2012.⁶

The Secure and Fair Enforcement (SAFE) Act, first introduced in Congress in 2013, would statutorily exempt depository institutions providing services to state-legal marijuana businesses from adverse provisions of the Controlled Substances Act and related money laundering laws.⁷ This effort to encourage the financial industry to increase its engagement with the cannabis industry, has been viewed in Congress as a public safety measure capable of garnering enough bipartisan support to be able to pass, which it almost did in December 2021. Amidst disagreements among legislators as well as advocates over legislative process on issues SAFE ties into, SAFE was blocked in the Senate after passing the House.⁸

Tragedy and Aftermath

As SAFE stalled in the Senate, Washington State's cannabis community was in the grip of an unprecedented surge in armed robberies targeting cannabis stores. This occurrence, which began in November 2021 and lasted over 4 ½ months, saw nearly 100 reported robberies hit approximately 80 stores, and ended with three people dead.⁹

Hatfield was involved. Just after 10:00pm on March 19, he and an accomplice, 15-year-old Marshon Jones, stormed World of Weed in Tacoma. Hatfield, according to the police charging document, handed bags to the workers who were there, ordering them to fill the bags with cash. One of the workers, Jordan Brown, threw his bag back at Hatfield, then stepped back and put his hands in the air.¹⁰ The narrative then momentarily gets murky.

Retail workers are typically trained to cooperate with robbers' demands. But they are human beings, and don't always respond to threats or violence as planned. An employee may believe a robber is likely to shoot someone, and that fighting back is the only hope to prevent this. One may view oneself as capable of overpowering a robber. Employees often identify with their workplaces, certainly in the cannabis space where they are changing the world in a way they believe in. Being forced to help loot one's workplace must feel distasteful or even humiliating.

When the narrative picks up, a physical altercation had ensued between Brown and Hatfield. Jones reacted by firing his weapon at Brown. The bullet hit Brown in the neck, and he was gone.

The other two deaths were of suspects in other robberies, both during the same week as Brown's. One was shot by police during a standoff, the other by a door security employee.^{11 12}

The surge catalyzed political activity in Washington State. In May Governor Jay Inslee and other statewide officials sent a letter to Senator Chuck Schumer and other congressional leaders, asking for passage of the SAFE Act to help with the "very real public safety crisis."¹³ A bill to increase penalties for robbing cannabis stores passed the Washington Senate, but faced opposition and didn't move in the House.¹⁴ The bill had responded to calls from some victims of cannabis store robberies.¹⁵ One cannabis worker who had a gun held to his head during another of Jones and Hatfield's robberies, was quoted in media (not in connection with the bill) as vowing to take vengeance when they went to trial.¹⁶

What's At Stake

The contention over the SAFE Act, which first bubbled up in 2019, has been primarily focused on concerns over whether passing a narrow, financially-focused measure promoted by business would undermine prospects for passing further-reaching reform, particularly equity measures to promote inclusion in the industry. One camp asserted it would have that effect.

The other camp argued SAFE was needed to help small businesses struggling under the substantial costs of doing business in state-legalized cannabis, of which dealing the cash situation is a big one. They argued cash is a worker safety issue, and that we should pass what we can when we can, to ameliorate current harms. (Disclosure: Our organization is in this latter camp.)

In late 2021, we also began to hear arguments that appeared to downplay the significance of cash in driving crime against cannabis stores, and of the significance in the big picture of such crime. Our statistical analysis confirms that cash dominates as the target for armed robberies. The fact of the Washington robberies surge confirms that the issue of cannabis store robberies, while varying in its importance over time and place, is capable of erupting into crisis.

Our analysis also finds elevated average aggression levels for a type of robbery that mainly targets cash, namely robbing the back of a store where the safe is found, though the finding is more limited due to data limitations. Qualitative analysis suggests this type of robbery relates causally in some cases to violence directed against workers, as the incidents cited earlier suggest.

We were unable to assess the same questions for product-focused robberies – because product-only robberies occur too infrequently. There are too few in the Washington data for correlation measures involving them to have statistical significance. During the surge, in fact, we identified only one product-only robbery. Most burglaries, by contrast, appear to target only product.

While carrying out our analysis, we encountered further questions that compelled examination. These include 1) why the Washington surge happened when it did (which relates to the question of whether something similar could happen again in Washington or in other places), 2) why cannabis stores in some parts of the country are affected more by robberies than other parts, and 3) whether SAFE on its own will resolve the robbery problem.

The discussion sections which follow present what we've learned from an early-stage examination of those questions. But one bears special note: The SAFE Act's explicit protections for banks relate directly only to the depository account relationship. We think Congress should move at this time, or as soon as possible, to explicitly include payment transactions as protected, and as part of that to authorize a payment code for cannabis purchases.

Without language of this type, there is a significant risk that credit card networks will continue to decline to serve the cannabis industry. While we believe progress would still be made in reducing cash prevalence, it might be more incremental than many are hoping for, if customers are still prevented or disincentivized from paying electronically. Short of full success in establishing credit card payments for cannabis, in person and online, a lot could be accomplished if the top processing networks, in particular Visa and Mastercard, were to at least greenlight purchases through debit and mid-level payment processors that make use of their networks.

The Washington surge saw 96 robberies take place in the state over a short period of time, with several hundred members of Washington's cannabis community directly subjected to the use of force. Research on robberies and Post Traumatic Stress Disorder suggests that between 28-48% of incidents trigger PTSD cases.¹⁷ If one considers close indirect impacts – family and close friends, and people working at other cannabis stores, undoubtedly watching as the crisis unfolded – the number of people affected is in the thousands.

This group of people is a population impacted by the drug war. The fact that there are larger impacted populations, many of whose members have endured worse suffering and have done so

for longer, doesn't change this. Cannabis worker concerns deserve to be included among the set of concerns that get centered in discussions of drug policy and of justice. Issues traditionally seen as relating to worker safety, which is a matter of moral weight, should be afforded the presumption of legitimacy, in the absence of strong countervailing evidence rigorously analyzed.

ROBBERIES IN CONTEXT

The Washington surge was unprecedented in its scale, at least so far as is known. But does that mean we are in a new and more dangerous time for cannabis stores? Or did the robberies never reach that scale before, simply because it was an unlikely event, or had causes specific to that place and time, hence is not likely to recur?

Only time will tell for sure. But the surge coincided with changes in society that would tend to point to businesses of this type becoming more of a target, in ways that accelerated during the pandemic, but predated it, and are not expected to reverse. The context for considering these questions includes elements that are individual, temporal, and geographic, and which tie into other criminological questions.

Individual Context

An argument heard in 2021 is that cash isn't central to the robberies problem, because robbers target cannabis product too. This misses the mark: Product and cash together are likely to provide greater total incentive for potential robbers than either alone would.

We agree, however, that focusing too exclusively on cash can lead one to miss the mark in other ways. In that light, an effect of having both product and cash is to create a wider set of incentives for robbers, capable of attracting more of them and doing so more of the time.

People who carry out armed robberies have a variety of goals, which vary from person to person, group to group, and occasion to occasion. Some on a given day may only need a modest amount of cash to take care of a pressing need. They may wish to get money from the cash register, then leave quickly to minimize risk. Others may need a larger amount of cash, and be willing to engage in the greater level of aggression and higher risk level that goes with forcing an employee to the back of the store to open the safe.

Some robbers are well connected in the cannabis gray market, and they may have contacts willing to pay a favorable rate. This group may choose to engage in the only slightly longer process involved in smashing display cases to take product.¹⁸ Whereas some may instead stick with just cash, if they don't have good connections to buy the cannabis from them, or whose connections don't have enough cash on hand at that time to pay on delivery on within a short enough timeframe, or who don't want to take on the risks that even today go along with illegally possessing large quantities of cannabis until they can sell it.

Others may stick to burglaries, because of specific skill sets they have, or because one can burglarize a store without carrying a weapon, hence risk a lesser sentence than if carrying one.¹⁹

Temporal Context

All these choices play out in a context of rapid social change. Recent decades have seen a substantial reduction in the prevalence of cash in our society. More people do more of their purchasing using physical credit cards or online. Fewer businesses have large amounts of cash on hand, and individuals carry less cash.

This has had a profound impact on people who rely on property crime for income. With less cash available, they have become more focused on valuable merchandise, but also on remaining cash sources.

The shift away from cash accelerated in 2020 with the advent of the COVID-19 pandemic. It is commonly said that social dislocations during the pandemic have impacted crime rates. One of those dislocations is the reduction in income opportunity faced by people who steal for a living.

Research has found that while there are fewer robberies today in metropolitan areas of the United States, the robberies are more violent.²⁰

A finding of relevance to cannabis stores is that safecracking is no longer a commonly held skill, due to there being less use for it.²¹ In the absence of that skill, or without the specialized equipment needed to break into a locked, good-quality safe, people seeking the larger amounts of cash that get held in a safe need an employee to be present who has the combination. And that means robbery, not burglary.

Criminological Context

Another argument made since 2021 is that cannabis stores can't be magnets for robbery, because studies find these stores have reduced crime. This argument would not be tenable in any context. Crime does not have a single rate, and it's not a principle in criminology that the rates of different categories or subcategories of crime necessarily move in the same direction following a change.

One can imagine a scenario in which a cannabis store improves neighborhood safety, for example through its security measures, or by bringing a flow of new people into a neighborhood that didn't previously have a healthy number of people. A few of those new people, however, may be willing to act on criminal opportunities they become aware of while there.

Whether they will go on to target the store is an individual or small group decision, that possibly could be influenced by the general neighborhood conditions, or by the store's security measures. But it's influenced by other factors as well, among them what other options the potential robbers have for generating income, and how badly they need the income.

In any case, few if any of the people who live in or make short visits to a neighborhood are likely to be inside a store that gets robbed, at the exact time of the robbery. They will thus enjoy any general improvement to neighborhood safety, or other benefits of having a cannabis store,

without suffering high costs. It's only the people who work at the store who have a high probability of being present for or harmed by the robbery.

In this way cannabis store robberies illustrate a principle known in academic drug policy as concentration of harm. Prohibitionist measures, and perhaps control measures generally, might provide a level of benefit to a larger number of people. But that comes at the cost of inflicting disproportionate levels of harm onto a smaller group of people.²² Some other (far larger) examples of this effect are drug trade violence in drug production source countries (particularly Latin America), and the spread of HIV/AIDS through injection drug use.

Unfortunately, research findings on cannabis stores and crime are not as straightforward today as it seemed early during the legalization period, when studies found either no effect on crime or a reducing effect. Today the findings are more mixed. Some have found cannabis stores decreasing crime in some types of neighborhoods while increasing it in other types. Still others have found no effect. Findings may change, of course, if cash at current levels is removed from the equation.

The shift in research outcomes for cannabis stores and crime could simply reflect the common occurrence that more research turns up more detail and new understandings about an issue. But another possibility is it reflects property crime having evolved in ways that increase the focus of robbers on certain types of establishments.

Geographic Context

While looking at armed robberies of cannabis stores, one finds the bulk of the reports are from states in the west. Reports of such robberies on the east coast are much fewer.

Skeptics of SAFE or advocates for delaying it sometimes point to the rarity of robberies in some places or times, or situations where cash turned out not to be the issue that was expected. These are not valid arguments in the context of a debate about national legislation. If cannabis store cash is a public safety issue in some places and times but not others, it's a public safety issue.

One also sees a disjuncture in how widely stores have adopted the cashless options available to cannabis businesses today, or at least of how many of them are eager to say so. If one goes to the web sites of five retail cannabis stores in Boston, for example, chances are that all of them will offer debit card purchase in person, along with cash purchase.²³

If one looks at five store web sites in Portland, Oregon, by contrast, or Oakland, California, there's a good chance that none of them will mention any payment options besides cash. That doesn't necessarily mean they don't have a debit card option one can find when visiting the store. But if they do, they don't emphasize it.

Store operators with whom we've spoken have suggested a number of possible explanations. Some of these relate to the west having in many ways been marijuana's frontier. Medical cannabis happened there first, and legalization happened there first. Many more stores per capita operate in much of the west, compared with a smaller number of stores in jurisdictions in the

east. A larger proportion in the west are small or midsize independent businesses, compared with the east coast, where a larger proportion are part of larger businesses such as the multistate operators (MSOs). Washington notably doesn't allow out of state ownership in the sector.

The larger number of cannabusinesses in the west means more competition, and it's been going on for longer. As a result, prices and profit margins have dropped in the west in a way that's yet to be seen elsewhere. Western stores are therefore less able to afford the high fees charged by the "cashless ATM" networks commonly used for debit card purchases. Operators may offer the debit card purchase option, but can't afford to have too many customers make use of it. They'll instead view it as there for new customers who don't already know about the high fees that they're charged for purchases too, or who have not yet had the common experience of finding that the cashless ATM's network has gone down.

Stores in the east, by contrast, may be better able to afford to accept debit card payments, due to their larger profit margins and deeper pockets. MSOs are more likely to have investment capital, and because of fewer stores, have a larger cash flow per store. Importantly, this may make larger operators dominant in the east able to spend more on security than smaller stores do, and that may make the difference in deterring potential robbers.

The community in western legalization states may also be more skittish. Following passage of the first legalization laws by voters in Washington and Colorado in 2012, federal regulators increased their scrutiny of cannabusinesses, and carried out a partial crackdown. Businesses that had previously accepted credit cards, which they'd done by (illegally) making use of product codes intended for other types of merchandise, were no longer able to do so. Debit card purchase became harder to offer, and depository relationships became harder to maintain. Owners who'd engaged in prohibited practices faced possible blacklisting by card processors, and not just for their cannabusinesses, but as individuals who might wish to attempt other business ventures in the future. Companies that had popped up offering expensive "fully compliant" credit card payment solutions that were in fact not legal, inevitably disappeared. Cannabusinesses became skeptical that any payment processing service would be compliant without federal legislation first.

Our research into the geographic variation in cannabis store robberies is at an early stage, and the above are mere hypotheses, not conclusions. Undoubtedly there are other factors we haven't considered here as well.

Nevertheless, it seems natural that smaller businesses would have less to spend on everything, including security. If squeezed budgets in this expensive industry does in fact play a role in the robberies problem, by impacting how much small businesses can spend on security, that's a reason for policymakers to take steps to reduce some costs. Operators we've spoken with have cited figures as high as \$6,000 for monthly banking fees in the current legal environment, on top of the expense of building out a property to incorporate more security measures.

STATISTICAL ANALYSIS

Dangerous Delays appears to be the first-ever study of the characteristics of marijuana store robberies. Our report probes questions related to 1) the impact of cash prevalence on the frequency of cannabis store robberies, 2) the scope of robbers' ambitions during a robbery, and 3) aggression displayed during robberies including violence.

We probe these questions using descriptive statistics about property targeted, areas of stores targeted, and documented aggression categories; and inferential statistical analysis testing possible relationships between robbery types and aggression. We also make use of qualitative analysis based on news accounts and other sources.

All the computations were performed, and the graphs and tables in this section generated, using the R statistical programming language, except for the seven-day average and average aggression level tables, which were prepared using Excel. (Data science consultant Marilyn Macy provided valuable assistance for this project.²⁴)

The Uncle Ike's Tracker

Our principle data source is the "Uncle Ike's I-502 Robbery Tracker," a resource maintained by Uncle Ike's, a Seattle-based cannabis store chain with five locations.²⁵ Uncle Ike's staff have compiled information on robberies of cannabis stores in Washington State since 2017, using direct reports from stores, news articles, police blotter reports, and other information. The Uncle Ike's locations in White Center and Lake City were robbed in 2018 and 2021.^{26,27}

We added or updated a few items based on info we found on the Seattle Police Blog. We also made use of police incident data from King County, Washington's largest county, which includes Seattle.

The Uncle Ike's tracker is the only data source we know of on cannabis store thefts. As of 8/13/22 it listed 165 armed robberies of Washington cannabis stores. 120 of those incidents include links to reports by news media outlets or in the Seattle Police Blog. Another 29 were confirmed by Uncle Ike's staff in other ways, primarily communication with the stores' personnel. Staff have indicated they ask a set of questions that include information needed to classify incidents as robberies or not. The remaining 16 listings are incidents people in the community talked about, but which Uncle Ike's staff don't consider confirmed. That leaves 152 armed robberies confirmed at some level.

Though Uncle Ike's primarily tracks robberies, it also includes information on some burglaries. The tracker included 22 burglaries as of 5/24/22. We presume these to make up only a small fraction of cannabis store burglaries in the state. *Dangerous Delays* focuses primarily on robberies.²⁸ We do look at property type targeted in the Uncle Ike's burglary listings.

The numbers on Uncle Ike's represent a lower bound for the number of Washington cannabis store robberies, because not all such robberies get reported. One might be able to identify more robberies of cannabis stores in the state by doing an address matching of store locations to the

locations of robbery incidents appearing in police report data, and then filing public records requests for the police reports. This process would be complicated by the fact that address data in many counties, including King County, are blurred to the block level to protect privacy, making the process of obtaining the desired reports likely to be more time-intensive and expensive.

The resulting numbers would also remain a lower bound estimate, as not all robberies get reported to police or included in their data. However, it might also reduce any selection biases introduced from which robberies media chose to report. It would not address biases from which robberies store operators chose to report to police. We did not undertake this additional process.

Model, Hypotheses, and Limitations

We propose a model in which most cannabis store robberies fall under three broad categories: robberies targeting cash from the register in the front of the store; robberies targeting the cash register as well as product in display cases; and robberies targeting the safe in the back of the store, which may or may not also target property in the front of the store.

Due to their apparent small number (as we'll demonstrate), we propose that armed robberies targeting only product from the front of the store, and robberies targeting product in the back of the store (in addition to the safe or instead of it), be viewed as exceptions, for now.²⁹

Based on that framework, our analysis tests the following hypotheses regarding armed robberies of cannabis stores.³⁰

- Cash robbery is more prevalent than product robbery.
- Robberies targeting the back of the store involve higher levels of aggression than robberies targeting only the front of the store.

Although without a specific aspect of the model to motivate it, we see it as sensible to also test whether aggression levels vary according to type of property stolen, and so we include the following hypothesis:

- Aggression levels are different for cash-only robberies vs. product-only robberies vs. robberies targeting both cash and product.

To probe these questions, we defined a set of explanatory variables describing robbers' apparent objectives for a robbery; and a set of dependent variables describing robbers' actions while carrying out the robbery.³¹ We assigned values to the variables based on the information provided by news media and police blotter reports linked in the Uncle Ike's tracker, as well as notes made directly in the tracker.

Where possible we classified each incident in terms of property targeted (cash, product, or both), whether robbers targeted the back of the store (which usually but not always means the store safe), as opposed to staying at the front of the store.

Where possible, we assigned four aggression categories to incidents. These are Brandished Weapon or Held People at Gunpoint (the two concepts combined because of their similar role in robberies and their likely overlap); Deliberately Pointed Weapon (meaning the gun was pointed directly at a person, representing an imminent threat to kill, not just brandished as a show of power); Assaulted Staff or Others; and Fired Weapon.

Armed robbery is inherently an aggressive act. These four categories are intended to represent levels of aggression going beyond what is already inherent in a robbery. Making use of them, we also defined two aggregating categories. These are Elevated Aggression, which includes any incident demonstrating one or more of the four individual aggression categories; and Aggression Level, a numerical variable with integer values ranging from zero through four, which counts how many of the individual categories an incident demonstrated.

We examine these variables descriptively, e.g. as having interest in their own right. But we also make use of the property theft type, and the front store/back store categorization, as explanatory variables; with the aggression categories as the dependent variables. We use correlation tests to assess whether placement in the aggression categories is associated with statistical significance to placement in any of the explanatory variable categories.

We defined our four aggression variables based on what we saw in incident descriptions from news accounts and entered directly in the tracker. Our reason for combining brandishing a weapon and holding people at gunpoint into a single variable is that the two acts serve roughly the same purpose for a robber, and substantially overlap.

Our category assignments are subject to the limitation that for any given incident, we only know the details that were reported. If a detail is left out, or is reported erroneously, we have no way to know. We only selected categories for which the property type or behavior was reported explicitly, and did not assign them in other cases even when we thought they might be implied. If a given behavior or property type gets reported or underreported by media at different rates, or if robbery incidents themselves fail to make the listings at rates that vary for different categories, that could skew our findings. There is also a degree of subjectivity in some cases as to how a news account gets interpreted for the purpose of assigning categories.

Whether such limitations are important for the purposes of our examination is another question. For general reasons relating to the chief questions at stake in the SAFE Act debates, we believe these limitations are not critical ones. If the data include robberies focused on cash, and if cash plays a role in elevating aggression levels, then it's important to reduce the prevalence of cash, regardless of the relative levels or properties of product vs. cash robberies. The importance of assaults on workers has more to do with their total number than with what percentage of all robberies they occurred in. We will discuss limitations in more specific terms as they have bearing on the presented findings.

We note three specific issues here, however, two of which we hypothesize and one of which we observe. First, there is reason to believe that the Brandished Weapon / Held People at Gunpoint category may be disproportionately undercounted, specifically in the situation of back store robberies. To force an employee to go to the back of the store is likely to involve holding a

weapon. But the fact often does not appear in the news accounts. In news writing style, one does not necessarily include every detail of an incident, because doing so would make an article too long, and harder or less appealing for the average reader. An author may consider the act of holding a weapon to be implied in this situation, or leave it out due to giving precedence to noting other details.

Second, it is possible that cash-only thefts targeting the front of the store are disproportionately undercounted. The easiest and safest theft to carry out in a cannabis store robbery is to get cash from the register. Walking up to the counter and informing the staff person that one is armed and is robbing the store, has a good chance of inducing that person to empty the register. But we only saw one incident described in this way in news accounts. Because this is the least dramatic type of robbery, it may also be the robbery type that is least likely to get reported.

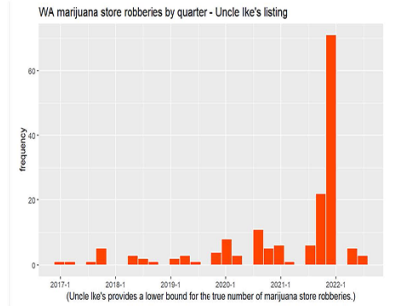
The third issue, which is the one we've observed, is that weapons get fired during robberies for several different reasons. Robbers may fire a weapon at a ceiling or floor to intimidate, at a door or cash register to try to open them, deliberately at a person, out of inexperience or panic, or by accident. Each of these has different implications both for how they happened and for what impact they have on victims of the robbery. The range of different reasons also has the effect of broadening the set of occurrences for weapons fire to a larger number of robbery types.

Given the relatively small amount of data we have to work with, it's not a good option statistically to separate weapons fire incidents into separate categories. For this reason we found the variable to be less useful for statistical correlation analysis. We included it in the analysis, but qualitative analysis of weapons fire on an individual incident basis may be more revealing.

These are only some possible limitations we've thought of, and there could be others. Our own biases could affect which possible limitations we've identified or failed to.

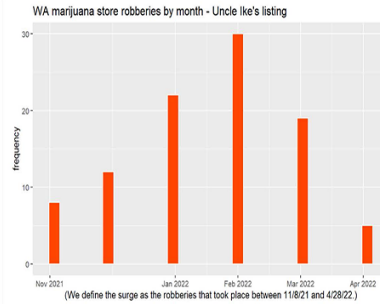
Scale of the Crisis

We define Washington's cannabis store robbery surge as the set of robberies taking place from 11/7/21 and 4/28/22. As before, we exclude burglaries from this set for most of this analysis, although we take a brief look at them. The Uncle Ike's tracker documents 96 robberies during the surge, accounting for nearly 2/3 of the robberies listed on the tracker. February 2022 saw Washington's peak robbery rate.



Uncle Ike's tracked 165 armed robberies as of 8/13/22.

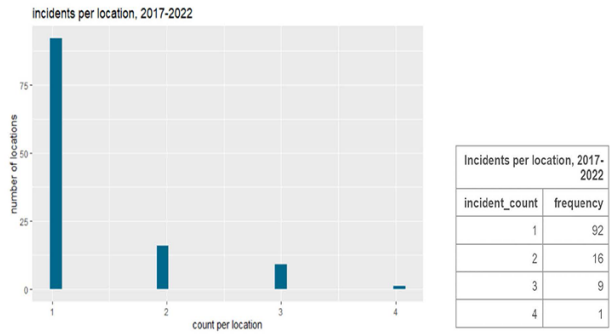
96 robberies occurred during the 11/7/21 – 4/28/22 surge.



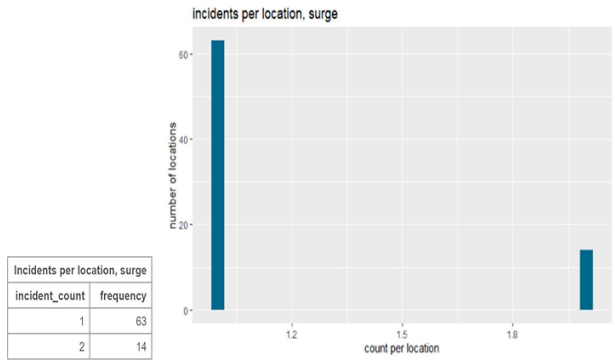
DATE	# ROBBERIES	PAST 7-DAY AVERAGE
1/29/2022	2	
1/30/2022	0	
1/31/2022	0	
2/1/2022	0	
2/2/2022	0	
2/3/2022	2	
2/4/2022	3	1.00
2/5/2022	2	1.00
2/6/2022	1	1.14
2/7/2022	1	1.29
2/8/2022	2	1.57
2/9/2022	5	2.29
2/10/2022	3	2.43
2/11/2022	1	2.14
2/12/2022	0	1.86
2/13/2022	0	1.71
2/14/2022	2	1.86
2/15/2022	0	1.57
DAILY AVERAGE, 1/29 - 2/15:		1.33

For 18 days starting in late January, robberies took place at a rate exceeding one per day. More precisely, the past seven-day average from 2/4/22 – 2/15/22, which involves the time period from 1/29/22 – 2/15/22, ranged from 1.00 to 1.86 per day, and averaged 1.41 per day over the 17 days.

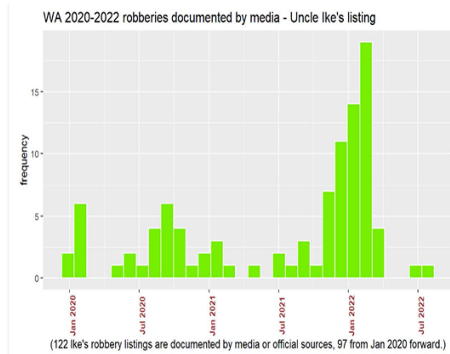
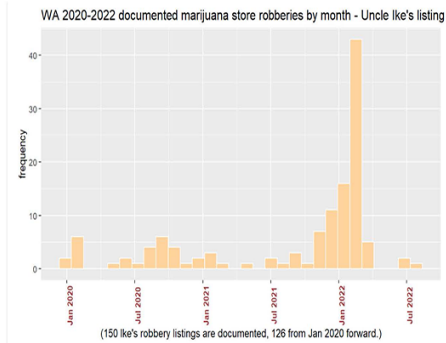
Of the 165 robberies reported on the Uncle Ike's tracker, addresses are known for 155 of them. These 155 robberies affected 118 establishments, with 92 robbed once, 16 robbed twice, nine robbed three times and one robbed four times. Among the harms that go with successive criminal victimizations is that PTSD risk is believed to go up even more.³²



Of the 96 robberies Uncle Ike's reports during the surge, addresses are known for 91. These 91 robberies affected 77 establishments, with 63 robbed once and 14 robbed twice, or roughly 8% of the roughly 1,000 stores in Washington State. In King County, 62 out of the 215 stores are known to have had armed robberies, or nearly one out of three.³³



The charts above include all 165 armed robberies listed on the Uncle Ike's tracker. A look at the 150 of these which Uncle Ike's staff consider documented, and the 122 documented specifically by news media or official sources, shows the same general shape.



The peak time period of robberies in the middle of the surge does have a higher rate of reports made to Uncle Ike's staff but not in media or official sources. This is likely to reflect peaking interest in the tracker and focus on the issue amidst the surge. If so, the peak if looking at the true number of all robberies might be less pronounced, because of other time periods showing more robberies than are tracked now.

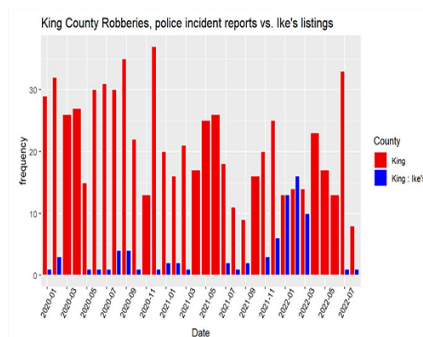
Alternatively, it could be that some incidents without documentation have been misidentified as robberies. For example, they could be burglaries that the store personnel reporting them to Uncle Ike's incorrectly stated were robberies. We see this as less likely, due to Uncle Ike's staff's

interview procedures, which include specific questions including the information needed to properly classify incidents.

Another way to look at the surge numbers is to compare them with total robberies. Some counties publish their police incident data online, including King County.³⁴ We tagged the Uncle Ike's listings by county for this purpose.

The comparison, however, is not a literal one. There are robberies reported to Uncle Ike's that either don't get reported to police, or don't show up in the police listings due to insufficient investigation or for technical reasons.³⁵ There may also be robberies in the police listings that aren't reported to Uncle Ike's.

The degree of reporting on either side may also change as interest in cannabis store robberies waxes and wanes. This is certainly the case during the first half of February 2022, when about half the King County robberies on Uncle Ike's don't appear in police listings. This is why at one point in February there are more cannabis store robberies listed on Uncle Ike's than total robberies in the county dataset at that time, which by definition can't be literally true.



We juxtapose the two datasets for 2022 forward, but for those reasons stress this is only to provide a general picture of the shapes and relative scales.

This data reflects 678 armed robberies listed by King County authorities for January 2020 forward, and 76 on the Ike's tracker, or cannabis stores at 11%. During the months representing the surge, those numbers are 109 and 48, with cannabis store robberies at 44%.

A look through listings found online for bank branches, service stations, and check cashing services suggests cannabis stores in King County may make up a sixth or seventh of the types of locations commonly targeted for robbery. However, that does not account for street robberies or home invasions, which would also appear in the King County incident list. Data from another county in Washington, Pierce County, classifies robberies according to these types, and finds that a great majority of robberies are retail.³⁶

The King County data can also be used to compare the percentage of establishments that have suffered repeat robberies. King County blurs the location data to block level, as a privacy protection, so what we can do is calculate an upper bound to the number of establishments that

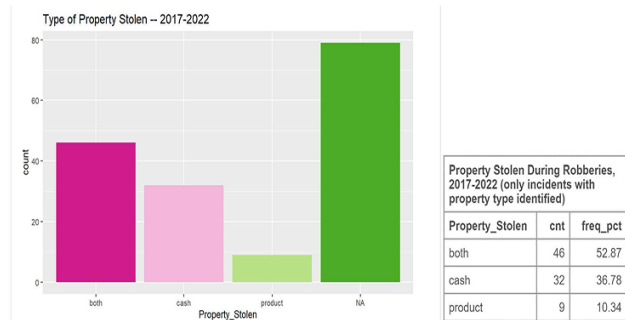
have been robbed more than once, which is 108, with the number of robberies per block ranged between 1 and 27. The lower bound is the 14 we found for this time period on the Ike's tracker.³⁷

If comparing the datasets literally, that would imply that cannabis stores that have been robbed more than once during 2020-2022 made up at least $14 / 108 = 13\%$ of locations in King County robbed more than once. However, since 108 is an upper bound for the number of locations robbed more than once, any smaller total number would imply more than 13% of them being cannabis stores.

Any way one looks at it, the Washington surge was an incident of scale, in which a substantial segment of the state's cannabis community was directly victimized through the use of force.

Property Targeted in Robberies and Burglaries

Using the cited information sources, we were able to classify 87 of the 152 listed robberies from Uncle Ike's as cash thefts, product thefts, or thefts of both cash and product. For these incidents, we found a majority, but a modest one, involved both cash and product. Of the remainder, most were cash-only robberies. Only 10% of robberies involved just product.



Statistics is concerned not only with the value of variables we're measuring, but also how confident we can be that the value is the "real" one for the population we're studying. In this case, the population is a hypothetical set of cannabis store robberies carried out under sufficiently similar conditions to those in Washington State during the time being studied.

Under that assumption, the data within our "sample" of 72 robberies can be used to generate Confidence Intervals for each of the three proportions we're measuring. Those intervals will tell us, for a given percentage of certainty, how widely the proportions of cash-only robberies vs. product-only robberies vs. robberies involving both property types could have varied by chance from the population-wide "true" theoretical proportions. Using the standard 95% confidence level, we find the following intervals:



The 95% confidence interval bars for the full Uncle Ike's dataset show a modest degree of overlap between counts for cash-only robberies and robberies involving both cash and product. It is plausible that another set of robberies, carried out under identical average conditions to those in Washington, and reported on with identical selection patterns for what gets covered, could see cash-only robberies overtake cash-plus-product robberies for the leading percentage. But product-only robberies under identical conditions would almost certainly remain in last place.³⁸

How similar our sample of armed robberies is to armed robberies of cannabis stores generally is one assumption. As discussed earlier, another is that the proportions we're measuring have not been skewed by the availability of information about property theft type in the sources we have. That is, if a given property type stolen is less likely than another property type to get reported in a news or police source, or on the Uncle's Ike's tracker, or to have sufficient detail in the reporting, then proportions for different property types in thefts overall could be different. For example, we speculated above that cash may be undercounted, due to thefts involving only the cash register being the least dramatic and hence least likely to be reported on.

For the purposes of this examination, which is directed at the current public discussion over the SAFE Act and cannabis store robberies, that isn't necessarily important. We are not so much interested in whether cash is more of a draw for robbers than product is, as we are in whether the presence of cash creates more of a draw than there would be without the cash. Similarly, if cash is a safety issue in a subset of the robbery population, then cash is a safety issue, even if there are other subsets in which it could be less so.

Additionally, because so few product-only robberies appear in the sample, any skewing in the selection process would have to be quite large to change the general picture.

The above confidence analysis implies a "Null Hypothesis" that given enough sampling, the three different property theft categories would each occur 1/3 of the time. Given the frequencies in this sample, with product-only thefts much fewer than any other kind, that leaves a near statistical certainty that our "Alternate Hypothesis" for the frequency distribution (e.g. the one in our charts) seen here is real.

Another way to look at the data would be to compare total thefts that include product (product-plus both) with the total number including cash (cash-only plus both). That would ignore

the fact of an association between two property types that get taken together during a single theft (the "both" thefts is an overlap), and hence the analytical meaning of the approach seems unclear. But it does allow a comparison for the two property types in which the numbers are not as far off from one another as the product-only numbers are from the cash-only and cash plus product numbers. If statistical measures still find that the difference between the counts can't be a random fluctuation, through this arithmetically more stringent test, it will lend further strength to the hypothesis that cash is more of a robbery target.

For this purpose we run a proportion hypothesis test for total product thefts vs. total cash thefts. The Null Hypothesis is that total product thefts and total cash thefts occur at the same rate; the Alternate Hypothesis is that they occur at different rates. We use a one-sided test to ask whether the type occurring more frequently in our sample, total cash, is greater than the one appearing less frequently, total product. We specify a 95% confidence level.

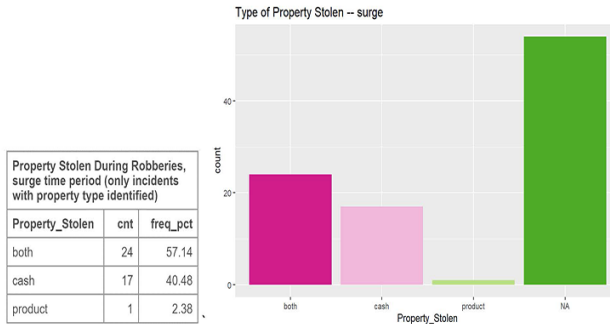
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2-sample test for equality of proportions with continuity
correction

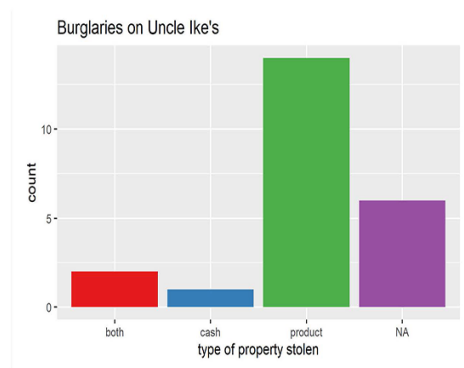
data:  c out of ncnt_cash_r out of ncnt_prod_r out of n
X-squared = 15.444, df = 1, p-value = 4.249e-05
alternative hypothesis: greater
95 percent confidence interval:
 0.152298 1.000000
sample estimates:
 prop 1  prop 2
0.8965517 0.6321839
    
```

The "p-value" represents the probability that the difference in total product theft vs. total cash theft counts would occur by chance, if these robberies were sampled at random from a hypothetical much larger population of robberies committed under identical conditions. The negligibly small value for p, less than 0.00001, again reflects no real chance that the difference would be due to chance fluctuation, under the afore-described assumptions.

For the time period of the surge, we were able to classify property stolen in 42 cases. We saw a slightly higher percentage of cash-only robberies, and just one product-only robbery.



The Uncle Ike's spreadsheet is identified as a robbery tracker, but staff also include burglaries that come to their attention. As noted above, of 5/24/22 there were 22 burglaries listed. We presume that burglaries of cannabis stores in Washington are substantially more common than that. Where possible, we assigned product theft type to burglaries as well, using the same categories as used for robberies.



Of the 16 burglaries listed on Uncle Ike's as of 5/24/22, for which we could determine a theft type, 13 targeted only product. Of the three burglaries in which cash was reported as taken, two also included product theft; the cash was taken from the register in one case (it apparently had not been emptied at closing time), and from an ATM in the other. In the cash-only case, an individual with safe-cracking skills burglarized the store.

One plausible interpretation about these differences is that product can easily be stolen through the "smash and grab" technique -- breaking the windows of display cases or breaking open cabinets -- whereas a cash register may be slightly harder to break open, and a safe (where larger amounts of accumulated cash tend to be held) is a lot harder to crack.

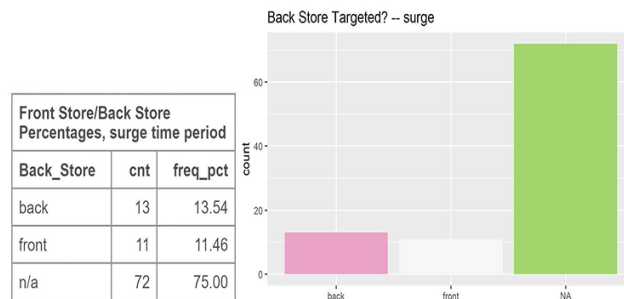
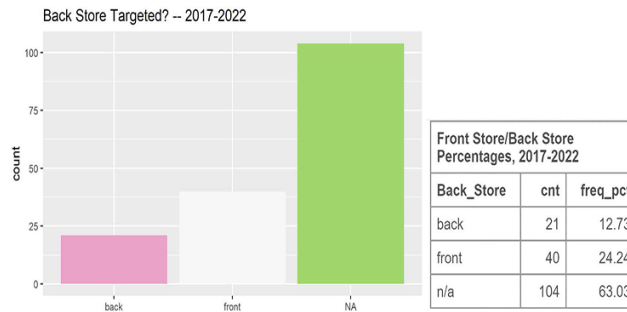
Through burglary, therefore, one can obtain product without tending to encounter people, hence at less risk and perhaps with more time to gather more of a store's product. But to steal cash, it helps to have an employee available, especially if one wants to access the typically larger quantity found in a safe.

Whatever the explanation, if the burglaries reported on Uncle Ike's are representative of cannabis store burglaries, burglars have the opposite main goal to robbers -- they want product -- and tilt much more toward that goal.

Store Areas Targeted in Robberies

Our model hypothesizes that robberies targeting the back of the store, which usually means cash in the safe, have an elevated level of aggression relative to robberies that only target the front of

the store. The number of incidents for which we were able to assign categories on this aspect of robberies is substantially smaller than the number of incidents for which we were able to assign property types, as the charts below show. That limits how much our correlation analysis can tell us with statistical significance, but we do find some relationships.



Robberies we've identified as targeting the back of the store, for which we've also identified property type stolen, split roughly 50/50 in targeting only cash vs. targeting cash and product, similarly to the overall split for robberies listed on Uncle Ike's. This does not mean, however, that robbers are seeking product from the back of the store, as our categorization of back store robberies includes incidents in which robbers also target the front of the store.

Property Stolen During Robberies Targeting Back of Store, 2017-2022	
Property_Stolen	count
both	11
cash	10

A look at the 11 incidents identified as back store and targeting both cash and product finds news reports document robbers targeting property in the back of the store in just two cases.

Aggression in Cannabis Store Robberies

As discussed earlier, our model hypothesizes that robberies targeting the back of a cannabis store (which robbers do mainly to seek cash from the store's safe), involve greater average aggression levels than robberies which only seek property from the front of the store. We defined four categories of aggression, representing elevated levels of aggression beyond what is already inherent in an armed robbery. Based on those four categories, we defined two aggregated aggression categories, one of them consisting of the merging of the original four, the other counting for each incident to define an aggression level.

The number of occurrences of the four aggression types range from 11 to 19 during the surge, and from 19 to 44 for all incidents listed on Uncle Ike's:

type	Incident cnt
Assaulted_Staff_or_Customers	19
Brandished_Weapon_or_Held_People_at_Gunpoint	44
Deliberately_Pointed_Gun_at_Person	27
Elevated_Aggression	65
Fired_Weapon	19

type	Incident cnt
Assaulted_Staff_or_Customers	11
Brandished_Weapon_or_Held_People_at_Gunpoint	19
Deliberately_Pointed_Gun_at_Person	10
Elevated_Aggression	34
Fired_Weapon	12

To test the hypothesis, we employed the "Fisher test," a statistical measure of association between explanatory and dependent variables.³⁹ We used the Fisher test to measure correlation between whether a robbery targeted the back of the store or not, and aggression according to our categories. Without a theoretical basis for a prediction, we also used the Fisher test to see whether aggression varies based on type of property stolen. We ran the test for the full Uncle Ike's database from 2017-2022, and for the time period of the surge.

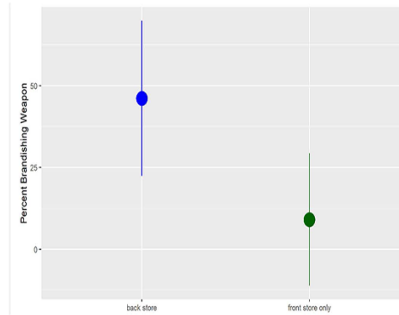
We found statistically significant correlations between area of store targeted and aggression levels, as measured for the time period of the surge.

Fisher p-values: Front Store / Back Store vs. aggression fields, surge					
Any Aggression	Fired Weapon	Assaulted Staff/Customers	Pointed Gun	Brandished, Held at Gunpoint	Aggression Level
0.0327433	1	0.3864416	0.3271222	0.0778032	0.0147852

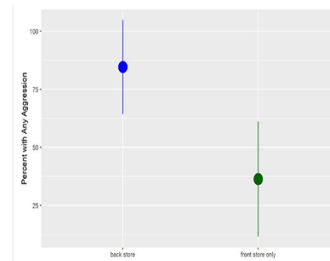
For the aggregated categories of any elevated aggression and aggression level, Fisher p-values were less than 0.05 (0.033 and 0.014 respectively), indicating 95% statistical significance. For correlation with the aggression category Brandished or Held People at Gunpoint, we found marginal statistical significance (e.g. less than 95% but more than 90%), with p-value 0.078.

Above we reasoned that our categorization method, which is based on news accounts, is likely to undercount occurrences of brandishing a weapon, in robberies that target the back of a store. It seems unlikely that robbers would routinely force an employee to the back of a store, without brandishing a weapon. If so, the significance level of correlation to that variable would improve.

Front or Back Store	Number of Incidents	Number Brandishing Weapon	Percent Brandishing Weapon	Confidence Interval (%)	Margin of Error (%)
back store	13	6	46.15	(23.33, 70.79)	23.73
front store only	11	1	9.09	(-0.24, 40.24)	20.24



Front or Back Store	Number of Incidents	Number with Any Aggression	Percent with Any Aggression	Confidence Interval (%)	Margin of Error (%)
back store	13	11	84.62	(56.31, 96.63)	20.16
front store only	11	4	36.36	(15.21, 64.79)	24.79



We did not find statistically significant correlations between property type and aggression levels. Also, when performing calculations over the full Uncle's dataset, e.g. 2017-2022, we did not find significant correlations for area of store targeted and aggression levels either. We only found significant correlations for store area targeted and aggression levels during the surge.

The difference for the two time periods and store area targeted appears to be that front store robberies reported on Uncle Ike's from 2017 to just prior to the surge, had brandishing weapons reported in news articles at a markedly higher rate than during the surge, bringing the aggression rates for front store vs. back store robberies close together.

Whether this reflects a shift in robbery practices, or a shift in reporting practices, or is simply a statistical fluctuation that any data analysis involving a small amount of data is vulnerable to, we cannot assess at this time. It seems clear that reporting by the community to Uncle Ike's increased during the surge, which could have an impact on reporting rates for different types of occurrences. Sometimes applying statistical measures to a larger dataset can have the effect of obscuring important facts about key subsets.

The average aggression levels mirror the findings. For the surge time period, robberies targeting the back of the store, averaged 1.38 elevated aggression types per robbery, more than twice the 0.64 average found for robberies targeting only the front of the store.

Measuring the average over the full Uncle Ike's dataset, by contrast, we find 1.24 vs. 1.08. This much smaller difference would require more data for any finding to meet the statistical significance or confidence test, vs. potentially being a random fluctuation.

SURGE TIME PERIOD		ALL 2017-2022 (as of 8/14/22)
average aggression level -- back store robberies	1.38	1.24
average aggression level -- front store only robberies	0.64	1.08
average aggression level -- cash only robberies	1.06	1.09
average aggression level -- cash+product robberies	0.92	1.02
average aggression level -- product only robberies	0	0.56

The Case of Weapons Fire

As we noted above, the category weapons fire is complicated by the fact of weapons fire occurring for several different reasons, each of which has a different type of impact. The most serious of these, of course, is when a worker or other person in the store gets shot.

This happened three times during incidents listed on Uncle Ike's. One of them was the killing of Jordan Brown. Another took place at Dockside Cannabis in Shoreline, where an employee, Huckleberry Kid, was shot six times after fighting with one of the robbers, one of the bullets exiting his body on the other side.⁴⁰ In the other, a bullet grazed an employee's arm, after a robber shot at the doorknob in an attempt to get back inside the store after employees had locked the door.^{41 42}

Doing remarkably well given what had happened, Kid did an interview with a local television station three weeks later. He acknowledged that his handling of the situation had led to his being shot, and he warned other workers that they're not as strong and able to take a weapon from a robber as they may think they are. Asked what the robber had said to him before their altercation, he answered, "He put the gun in my face and said 'give me the money!'"⁴³

There is a clear causal connection between fighting with a robber and the risk of injury or death. But the two incidents also involved robbers having specifically demanded cash, making the demand for cash also causally related to the shootings. That does not tell us whether a similar process would occur, with a demand for product being the prompt.

MOVING FORWARD

Will SAFE Solve the Cash Problem?

In discussions of SAFE Banking, one often hears oversimplified versions of the financial services situation faced by cannabusinesses. It's no longer a given that a cannabusiness can't get a bank account. It can be difficult, and it's expensive (in conversations we've heard figures as high as \$6,000/month for account fees), an account can get shut down on short notice (or no notice), the bank one finds to work with might not have nearby branches. But progress has been made. Guidance issued by the US Treasury Department's Financial Crimes and Enforcement Network (FINCEN) during the Obama presidency played a role in facilitating progress.⁴⁴

SAFE is often assumed to open a short path for stores to be able to accept electronic payments – credit, debit, online. However, SAFE explicitly addresses only depository relationships. The major credit card networks arguably have the least incentive to take any level of risk to serve the marijuana industry. They already have all the business in the world (almost literally), and don't need to take the unique risks in state-legalized cannabis. Cannabis will still be illegal, and not everyone is fond of it or the business. There could be conservative social sectors whose business is more important to Mastercard or Visa than the cannabis sector.

Worse, most debit card activity depends on access to the major credit card networks. In our Geographic Context discussion, we noted some of the challenges stores face in use of the "cashless ATM" debit card systems or other available cashless payment options, and the disincentives they and customers face to full adoption of them. These systems sit in a legal gray area, and aren't guaranteed a stable future. The networks and services that do the most to follow every law and requirement that they can, face geographic constraints as a result on where they can operate.

There are knowledgeable participants in the cannabis and financial industries who believe SAFE will be enough to bring credit card networks in. But there are also knowledgeable participants who believe its impact in that area will be limited, and some who don't think it will help at all, at least directly. Of the people we spoke with, those in banking, or are close to industry processing and administration, were the least optimistic.

Through these discussions, however, we have identified a number of ways in which SAFE is likely to move things forward. These benefits would not be universal, but rather would result from decisions taken situationally by individual businesses, regulators, or state legislatures in reaction to SAFE.

Following passage of SAFE, more banks will be willing to provide depository and checking accounts, the direct subject of the legislation. This should enable stores whose banks are physically far away now to bank more locally, eliminate instabilities in businesses getting to keep their accounts, and generally lower the cost of maintaining a bank account.

Operators of these stores will be able to safely and less expensively transport cash payments they've received to their banks on a daily basis, or multiple times a day, rather than every few days as some do now. That will mean less cash buildup. With the depository account relationship stabilized, operators will have one less disincentive to relying on electronic purchases, which require a bank account to be able to access the receipts. If cannabis businesses are spending thousands less a month for banking, they may be able to spend more on security, among other needs.

One operator has described to us having to regularly transport cash in amounts as high as a quarter million dollars to pay his businesses' taxes. The problem isn't that the tax agency won't accept an electronic payment. It's that he can't go over about a \$100,000 balance at any time, or do transfers over that amount (for taxes or payroll or anything). Paying taxes more often in smaller amounts wouldn't work either, because that would trigger a bank audit. Bankers know

what his business is. But an audit would lead to the fact being put in writing, leading to account closure. Federal regulators, while not necessarily wanting to shut down state-legal businesses' bank accounts, want banks to monitor and report transactions over a certain dollar amount. Once things go to that level of a bank, cannabis's federal status as an illegal controlled substance has consequences. SAFE Act protections for the depository relationship should be of at least some help with this.

A change in federal law will provide a new moment for FINCEN and other regulators to update their guidances, which while falling short of the power of statutory reform nevertheless can have an encouraging impact on financial services providers. State legislatures may also take the opportunity to look at how they might be able to help. Generally, one has to presume that progress in reducing cash prevalence, whether through legislation or through decisions taken at other levels, will happen sooner and faster if SAFE passes than if it doesn't, or if it falls off the congressional agenda or is perceived to have.

In any case, it will be a process. If SAFE had passed in December 2021, and even if that brought major credit card networks on board, it probably would not have saved Jordan Brown the following March. But the likelihood of a process that will take time to become effective, makes SAFE more of a pressing need rather than less.

Will Reducing Cash Solve the Robberies Problem?

In our Individual Context discussion, we noted various incentives that affect whether an individual or a group will choose to target a cannabis store, whether they'll do so through robbery or burglary, or what their objectives and tactics will be if they do a robbery.

Based on current incentives, there is little reason to believe that robberies targeting the back of a store will continue (as opposed to burglaries), or continue at the same level, if cash is removed from the equation. The great majority of such robberies are aimed at accessing cash in the safe, and without cash or with much less of it, that will be less lucrative.

There will also be much less incentive to target the cash register at the front of the store, if the volume of cash has declined. Those are roughly half of the documented front-store robberies on Uncle Ike's. We put forward a reason in the Limitations discussion to suspect the percentage could be larger. There's little reason to believe that front-store robberies targeting only cash would continue in that scenario, given current incentives.

Our data derived from the Uncle Ike's listings find few examples of product-only robberies (as opposed to burglaries which are mainly product-only). That may suggest product alone does not provide enough incentive to motivate many robberies, particularly because burglary is a viable option to obtain the same product. The lower prices of product in the west may support that hope, if that lowers the profitability of a robbery. On the other hand, it's possible that product alone will still provide enough incentive, and some people who steal for a living may prefer robbery over burglary. The fact that that latter group also seeks cash from the register today, doesn't prove that product alone won't provide sufficient motivation.

Under current incentives, therefore, it seems likely that the number of armed robberies of cannabis stores will significantly decrease, and possible that they will cease. But will the incentives stay the same?

Not necessarily. As noted in our Temporal Context discussion, we are in a time of rapid social change, and one of those changes is the continued reduction in our society's use of cash. An elimination or substantial reduction in cash prevalence in cannabis stores will represent another step in that direction. People who steal for a living will continue to react to the shrinking of their target list, by increasing their focus on valuable merchandise and on the remaining sources of cash.

If that group of people still needs the income that product available in cannabis stores will still provide, and if improved security measures make burglary harder to do, it's possible that incentives to target cannabis stores for robbery will continue to be sufficient to motivate such robberies. Nevertheless, that possibility does not seem like a compelling reason to postpone steps to reduce criminogenic factors that we know about.

Options for "SAFE Plus"

While we don't know this yet, it's possible SAFE will pass in the form of the promised SAFE Plus legislation. This legislation is expected to add social equity provisions into the SAFE Act, while stopping short of a fully overhauling of federal cannabis policy. Various organizations have put forward recommendations for SAFE Plus.⁴⁵ They include:

The Minority Cannabis Business Association (MCBA) recommends protections for Community Financial Depository Institutions (CFDIs) and Minority Depository Institutions (MDIs), and for affording the cannabis industry access to Small Business Administration programs.⁴⁶

In an August paper published by the Ohio State University Drug Policy and Enforcement Center, members of Cannabis Regulators of Color (CRC) outlined 12 proposals for equity measures.⁴⁷

Title III of the Cannabis Administration and Opportunity Act bill, "Restorative Justice and Opportunity," includes a range of measures targeting equity in the cannabis industry, and to that end would create a Cannabis Justice Office within the DOJ Office of Justice Programs.⁴⁸

The bipartisan HOPE Act, which has figured in the SAFE Plus discussion, would expunge federal marijuana convictions from people's records, and incentivize states to do so.⁴⁹

Of all these, expungement may have the best prospect for congressional support. Technically expungements lie in the area of criminal justice reform, as opposed to equity for the state-legalized marijuana industry. But a well-scaled and effectively administered expungement effort would do the most for equity generally. Criminal convictions are a barrier to participation in much of the economy, not just the marijuana industry, and which far more people are affected by than would ever directly work in the marijuana industry, much less hold ownership stakes in it.

RECOMMENDATIONS

- Congress should pass a meaningful SAFE Plus bill if it's able, but should at least pass SAFE, if possible before the end of the current session.
- The SAFE Act should include language expanding its current protections for depository account business to also include credit card and other electronic payment transactions, written in consultation with decisionmakers at the top credit card networks.
- Language should seek to enable full usage of major credit cards by cannabis store customers. But because that may or may not happen immediately, language should be crafted to incentivize the major card networks to at least allow other electronic transactions, e.g. debit cards and payment apps and sites, to make use of their networks.
- FINCEN and other federal and state regulators as well as banks should review their policies with an aim toward facilitating greater adoption of electronic payment for cannabis stores.
- States should consider providing funding for security measures to small and midsize cannabis stores.
- Employee training programs should be enhanced with respect to emphasizing the reasons for cooperating with robbers and how to avoid escalating tensions in robbery situations.
- Research into the characteristics of cannabis store robberies should continue and look at more geographic areas, funded for the more intensive types of research that can gain more information, such as interview surveys and reviewing police reports.
- The cannabis community should be encouraged to duplicate what Uncle Ike's has done in other states, and should encourage businesses to participate and report incidents, if necessary through anonymous reporting options.

ABOUT THE DANGEROUS DELAYS REPORT

Dangerous Delays is the first published study on the characteristics of cannabis store robberies. It's also one of a small number of studies even looking just at the number of such robberies. *Dangerous Delays* fits within a larger, though still relatively small body of literature on cannabis stores and crime, or on the impact of marijuana legalization on crime. Most studies focused on cannabis stores examine their net impact on crime levels in their communities, or on topics like store security measures. It can also be considered to fall within the literature on armed robbery.

About StoptheDrugWar.org

StoptheDrugWar.org works for health and justice by seeking to end drug prohibition and its excesses, while positively impacting related issues.

We are a primarily US-based organization that advocates on domestic drug policies and in the international sphere. Since our founding, we have also focused on providing information, particularly through Drug War Chronicle, the only online newsletter to comprehensively cover all areas of drug policy and reform.

We pick advocacy issues for which there are unfilled roles in which we and coalition partners can make a difference. One in which we played a leading role for over a decade was a successful effort to repeal a law that denied financial aid for college because of drug convictions.

In recent years we have engaged extensively in drug policy at the United Nations, and in international human rights and democracy advocacy, particularly in relation to the extrajudicial killings taking place in the Philippine drug war since 2016.

At StoptheDrugWar.org we take an intellectual approach to issues, while acknowledging that our role as advocates sometimes constrains our choices. We seek to recognize and address points in the drug policy discussion on which reasonable and informed people may sometimes disagree with us. We strive to understand and communicate about the complexities of issues, not just recite talking points, as format and the needs of each situation permit.

Some of the issue areas we engage in are criminal justice reform, marijuana legalization, harm reduction / public health programs, medical access to drugs, decriminalization of drugs, human rights and rule of law in drug policy, and reform of international drug treaties.

Disclosures

This report is published by Drug Reform Coordination Network Inc., StoptheDrugWar.org's 501(c)(4) lobbying and social welfare nonprofit. StoptheDrugWar.org is an advocacy group, which supports the SAFE Act, and does not support the delay approach despite sharing delay advocates' policy goals. The Dangerous Delays report therefore falls within the fraught intersection of research and advocacy.

Our organization receives funding from individuals or businesses in the cannabis industry, the total typically falling in the mid-four figure range annually. We have never received total five-figure funding nor greater in any given year. We do not, however, currently have a policy of capping our industry contributions. We have not received industry funding for the *Dangerous Delays* report as of the time of this writing.

A member of our Board of Directors, Mitzi Vaughn, is a cannabis attorney based in Washington State. Her clients in Washington include several businesses whose stores have been victimized by armed robberies. Among other organizational affiliations she has are the International

Cannabis Bar Association and The Cannabis Alliance. Vaughn provided information and feedback for the preparation of this report.⁵⁰

APPENDIX: Incident Categorizations

In order to support the Uncle Ike's tracker, and to respect their intellectual property, we are not publishing the full compiled spreadsheet that represents our dataset, which includes all of the Uncle Ike's dataset within it. We will consider requests for private access.

The following tables, however, can be used to identify which incidents on Uncle Ike's we tagged with which variables in our analysis.

robberies documented as involving cash that aren't documented as involving product:

5/10/2018, Mountlake Terrace
 7/30/2018, Seattle / Unincorporated King
 10/29/2018, Seattle
 2/3/2019, Bellingham
 2/7/2019, Bellingham
 4/8/2019, Pullman
 6/12/2019, Seattle
 2/8/2020, Vashon
 9/1/2020, Seattle
 10/19/2020, Ferndale
 11/16/2020, Tacoma
 12/24/2020, Seattle
 2/4/2021, Kirkland
 2/4/2021, Seattle
 2/10/2021, Lacey
 11/8/2021, Shelton
 11/29/2021, Olympia
 12/18/2021, Seattle
 12/30/2021, Seattle
 12/30/2021, Seattle
 1/4/2022, Vancouver
 1/5/2022, Seattle
 2/5/2022, Bellingham
 2/6/2022, Tacoma
 2/7/2022, Seattle
 2/14/2022, Tacoma
 2/17/2022, Lynnwood
 2/25/2022, Port Orchard
 3/19/2022, Tacoma
 4/2/2022, Everett
 4/7/2022, Belfair
 4/18/2022, Lacey

robberies documented as involving product, that aren't documented as involving cash:

6/24/2017, Seattle
 8/6/2018, Kingston
 1/27/2020, Union Gap
 1/12/2021, Seattle
 1/16/2021, Seattle
 7/29/2021, Bellevue
 9/30/2021, Seattle
 12/24/2021, Seattle
 8/13/2022, Maple Valley

robberies documented as involving both cash and product:

2/21/2017, Seattle
 11/21/2017, Mountlake Terrace
 11/24/2017, Silverdale
 5/21/2018, Kirkland
 11/18/2019, Seattle Unincorporated King
 12/21/2019, Seattle
 1/31/2020, Seattle
 2/6/2020, Everett
 2/6/2020, Seattle
 2/9/2020, Yakima
 2/19/2020, Seattle
 6/18/2020, Kirkland
 6/28/2020, Vancouver
 8/6/2020, Seattle
 8/23/2020, Seattle
 9/12/2020, Seattle
 10/17/2020, Union Gap
 10/20/2020, Seattle
 7/19/2021, Seattle
 8/9/2021, Seattle
 9/26/2021, Silverdale
 11/7/2021, Bellevue
 11/18/2021, Seattle
 11/18/2021, Spanaway

11/28/2021, Wenatchee
 12/8/2021, Everett
 12/12/2021, Olympia
 12/15/2021, Everett
 12/17/2021, Port Angeles
 12/24/2021, Seattle
 1/12/2022, Seattle
 1/15/2022, Port Angeles
 1/15/2022, Seattle
 1/15/2022, Seattle
 1/15/2022, Seattle
 1/18/2022, Everett
 1/19/2022, Lynnwood
 1/23/2022, Seattle
 1/29/2022, Seattle
 2/8/2022, Tacoma
 2/14/2022, Burlington
 2/24/2022, Olympia
 3/10/2022, Seattle
 3/16/2022, Bellevue
 7/21/2022, Lynnwood

robberies targeting the back of the store:

2/21/2017, Seattle
 5/10/2018, Mountlake Terrace
 5/21/2018, Kirkland
 11/18/2019, Seattle Unincorporated King
 9/1/2020, Seattle
 12/24/2020, Seattle
 2/4/2021, Seattle
 8/9/2021, Seattle
 11/18/2021, Seattle
 12/17/2021, Port Angeles
 12/18/2021, Seattle
 12/24/2021, Seattle
 12/30/2021, Seattle
 12/30/2021, Seattle
 1/15/2022, Seattle
 1/19/2022, Lynnwood
 2/17/2022, Lynnwood
 2/25/2022, Port Orchard
 3/10/2022, Seattle
 3/16/2022, Bellevue
 3/19/2022, Tacoma

**robberies only targeting the front of the store
 (displayed product or cash register or both):**

6/24/2017, Seattle
 9/12/2017, Seattle Unincorporated King
 11/21/2017, Mountlake Terrace
 7/30/2018, Seattle Unincorporated King

8/6/2018, Kingston
 10/29/2018, Seattle
 2/7/2019, Bellingham
 6/12/2019, Seattle
 7/6/2019, Olympia
 10/7/2019, Bellevue
 12/21/2019, Seattle
 1/27/2020, Union Gap
 1/31/2020, Seattle
 2/6/2020, Everett
 2/6/2020, Seattle
 2/8/2020, Vashon
 2/9/2020, Yakima
 6/18/2020, Kirkland
 6/28/2020, Vancouver
 9/12/2020, Seattle
 9/21/2020, Seattle
 10/19/2020, Ferndale
 1/12/2021, Seattle
 1/16/2021, Seattle
 2/4/2021, Kirkland
 2/10/2021, Lacey
 9/26/2021, Silverdale
 9/30/2021, Seattle
 11/7/2021, Bellevue
 11/8/2021, Shelton
 12/8/2021, Everett
 12/24/2021, Seattle
 1/5/2022, Seattle
 1/15/2022, Port Angeles
 2/5/2022, Bellingham
 2/28/2022, Bellevue
 4/2/2022, Everett
 4/7/2022, Belfair
 7/21/2022, Lynnwood

robberies not categorized by area of store:

11/21/2017, Spokane
 11/22/2017, Seattle
 12/13/2017, Seattle
 4/5/2018, Tacoma
 5/24/2019, Seattle
 12/15/2019, Seattle
 2/15/2020, Everett
 5/31/2020, Bellevue
 7/26/2020, Seattle
 8/12/2020, Bothell
 8/20/2020, Seattle
 9/17/2020, Everett
 9/18/2020, Bellevue
 9/25/2020, Everett
 3/14/2021, Seattle

5/20/2021, Spokane
 9/17/2021, Seattle Unincorporated King
 10/22/2021, Bremerton
 10/26/2021, Burlington
 11/7/2021, Seattle Unincorporated King
 11/10/2021, Bellingham
 12/27/2021, Bellevue
 12/28/2021, Edmonds
 12/30/2021, Renton
 1/3/2022, Lacey
 1/3/2022, Tumwater
 1/4/2022, Renton
 1/4/2022, Seattle
 1/9/2022, Renton
 1/15/2022, Lacey
 1/15/2022, Seattle
 1/18/2022, Mount Vernon
 1/21/2022, Lake Forest Park
 1/21/2022, Tacoma
 1/29/2022, Bellevue
 2/3/2022, Seattle Unincorporated King
 2/3/2022, Seattle - Skyway
 2/4/2022, Seattle
 2/4/2022, Seattle
 2/4/2022, Lake Forest Park
 2/5/2022, Silverdale
 2/8/2022, Seattle - Skyway
 2/9/2022, Tacoma
 2/9/2022, Seattle Unincorporated King
 2/9/2022, Seattle
 2/9/2022, Renton
 2/9/2022, Covington
 2/10/2022, Burien
 2/10/2022, Tacoma
 2/10/2022, Bellevue
 2/11/2022, Tacoma
 2/17/2022, Bothell
 2/22/2022, Seattle
 2/27/2022, Spokane
 2/28/2022, Vancouver
 3/5/2022, Kingston
 3/8/2022, Redmond
 3/9/2022, Seattle Unincorporated King
 3/10/2022, Tacoma
 3/10/2022, Lake Stevens
 3/11/2022, Seattle Unincorporated King
 3/11/2022, Auburn
 3/13/2022, Puyallup
 3/14/2022, Tacoma
 3/15/2022, Bothell
 3/15/2022, Tacoma
 3/15/2022, Tacoma
 3/16/2022, Tacoma

3/17/2022, Covington
 3/17/2022, Fife
 4/14/2022, Arlington
 4/28/2022, Everett
 7/21/2022, Unincorporated King County
 10/1/2022, Port Orchard
 10/19/2022, Vancouver

weapon brandished or people held at gunpoint:

2/21/2017, Seattle
 11/21/2017, Mountlake Terrace
 11/21/2017, Spokane
 11/24/2017, Silverdale
 5/10/2018, Mountlake Terrace
 7/30/2018, Seattle Unincorporated King
 8/6/2018, Kingston
 10/29/2018, Seattle
 4/8/2019, Pullman
 11/18/2019, Seattle Unincorporated King
 12/21/2019, Seattle
 1/27/2020, Union Gap
 1/31/2020, Seattle
 2/6/2020, Everett
 2/8/2020, Vashon
 9/12/2020, Seattle
 10/17/2020, Union Gap
 10/19/2020, Ferndale
 11/16/2020, Tacoma
 2/4/2021, Kirkland
 2/10/2021, Lacey
 7/19/2021, Seattle
 9/26/2021, Silverdale
 11/18/2021, Seattle
 11/18/2021, Spanaway
 12/12/2021, Olympia
 12/18/2021, Seattle
 12/30/2021, Seattle
 1/4/2022, Vancouver
 1/5/2022, Seattle
 1/15/2022, Seattle
 1/15/2022, Seattle
 1/18/2022, Everett
 1/19/2022, Lynnwood
 1/23/2022, Seattle
 2/5/2022, Silverdale
 2/6/2022, Tacoma
 2/10/2022, Tacoma
 2/10/2022, Bellevue
 2/14/2022, Tacoma
 2/17/2022, Lynnwood
 7/21/2022, Lynnwood

8/13/2022, Maple Valley

***weapons brandishing and holding people at
gunpoint not indicated:***

6/24/2017, Seattle
9/12/2017, Seattle Unincorporated King
5/21/2018, Kirkland
2/3/2019, Bellingham
2/7/2019, Bellingham
6/12/2019, Seattle
7/6/2019, Olympia
10/7/2019, Bellevue
2/6/2020, Seattle
2/9/2020, Yakima
2/19/2020, Seattle
6/18/2020, Kirkland
6/28/2020, Vancouver
8/6/2020, Seattle
8/23/2020, Seattle
9/1/2020, Seattle
9/21/2020, Seattle
10/20/2020, Seattle
12/24/2020, Seattle
1/12/2021, Seattle
1/16/2021, Seattle
2/4/2021, Seattle
3/14/2021, Seattle
8/9/2021, Seattle
9/30/2021, Seattle
11/7/2021, Bellevue
11/8/2021, Shelton
11/28/2021, Wenatchee
11/29/2021, Olympia
12/8/2021, Everett
12/15/2021, Everett
12/17/2021, Port Angeles
12/24/2021, Seattle
12/24/2021, Seattle
12/30/2021, Seattle
1/12/2022, Seattle
1/15/2022, Port Angeles
1/29/2022, Seattle
2/5/2022, Bellingham
2/7/2022, Seattle
2/8/2022, Tacoma
2/9/2022, Seattle
2/14/2022, Burlington
2/24/2022, Olympia
2/25/2022, Port Orchard
2/28/2022, Bellevue
3/10/2022, Seattle
3/14/2022, Tacoma

3/15/2022, Tacoma
3/15/2022, Tacoma
3/16/2022, Bellevue
3/17/2022, Covington
3/19/2022, Tacoma
4/2/2022, Everett
4/7/2022, Belfair
4/18/2022, Lacey

deliberately pointed gun at person:

2/21/2017, Seattle
11/24/2017, Silverdale
5/10/2018, Mountlake Terrace
10/29/2018, Seattle
7/6/2019, Olympia
10/7/2019, Bellevue
11/18/2019, Seattle Unincorporated King
1/27/2020, Union Gap
1/31/2020, Seattle
2/8/2020, Vashon
8/23/2020, Seattle
9/21/2020, Seattle
10/19/2020, Ferndale
2/4/2021, Kirkland
3/14/2021, Seattle
9/26/2021, Silverdale
11/18/2021, Seattle
12/12/2021, Olympia
1/4/2022, Vancouver
1/5/2022, Seattle
1/15/2022, Seattle
1/15/2022, Seattle
1/15/2022, Seattle
1/19/2022, Lynnwood
3/16/2022, Bellevue
3/17/2022, Covington
7/21/2022, Lynnwood
10/19/2022, Vancouver

deliberately pointing gun not indicated:

6/24/2017, Seattle
9/12/2017, Seattle Unincorporated King
11/21/2017, Mountlake Terrace
11/21/2017, Spokane
5/21/2018, Kirkland
7/30/2018, Seattle Unincorporated King
8/6/2018, Kingston
2/3/2019, Bellingham
2/7/2019, Bellingham
4/8/2019, Pullman
6/12/2019, Seattle

12/21/2019, Seattle
 2/6/2020, Everett
 2/6/2020, Seattle
 2/9/2020, Yakima
 2/19/2020, Seattle
 6/18/2020, Kirkland
 6/28/2020, Vancouver
 8/6/2020, Seattle
 9/1/2020, Seattle
 9/12/2020, Seattle
 10/17/2020, Union Gap
 10/20/2020, Seattle
 11/16/2020, Tacoma
 12/24/2020, Seattle
 1/12/2021, Seattle
 1/16/2021, Seattle
 2/4/2021, Seattle
 2/10/2021, Lacey
 7/19/2021, Seattle
 8/9/2021, Seattle
 9/30/2021, Seattle
 11/7/2021, Bellevue
 11/8/2021, Shelton
 11/18/2021, Spanaway
 11/28/2021, Wenatchee
 11/29/2021, Olympia
 12/8/2021, Everett
 12/15/2021, Everett
 12/17/2021, Port Angeles
 12/18/2021, Seattle
 12/24/2021, Seattle
 12/24/2021, Seattle
 12/30/2021, Seattle
 12/30/2021, Seattle
 1/12/2022, Seattle
 1/15/2022, Port Angeles
 1/18/2022, Everett
 1/23/2022, Seattle
 1/29/2022, Seattle
 2/5/2022, Silverdale
 2/5/2022, Bellingham
 2/6/2022, Tacoma
 2/7/2022, Seattle
 2/8/2022, Tacoma
 2/9/2022, Seattle
 2/10/2022, Tacoma
 2/10/2022, Bellevue
 2/14/2022, Tacoma
 2/14/2022, Burlington
 2/17/2022, Lynnwood
 2/24/2022, Olympia
 2/25/2022, Port Orchard
 2/28/2022, Bellevue

3/10/2022, Seattle
 3/14/2022, Tacoma
 3/15/2022, Tacoma
 3/15/2022, Tacoma
 3/19/2022, Tacoma
 4/2/2022, Everett
 4/7/2022, Belfair
 4/18/2022, Lacey

assaulted staff or customer (mainly staff):

9/12/2017, Seattle Unincorporated King
 11/21/2017, Spokane
 5/21/2018, Kirkland
 6/12/2019, Seattle
 7/6/2019, Olympia
 1/31/2020, Seattle
 9/30/2021, Seattle
 11/18/2021, Seattle
 11/28/2021, Wenatchee
 12/17/2021, Port Angeles
 12/24/2021, Seattle
 1/5/2022, Seattle
 2/5/2022, Silverdale
 2/6/2022, Tacoma
 2/9/2022, Seattle
 2/25/2022, Port Orchard
 3/19/2022, Tacoma
 4/2/2022, Everett
 7/21/2022, Lynnwood

assault on staff or customer not indicated:

2/21/2017, Seattle
 6/24/2017, Seattle
 11/21/2017, Mountlake Terrace
 11/24/2017, Silverdale
 5/10/2018, Mountlake Terrace
 7/30/2018, Seattle Unincorporated King
 8/6/2018, Kingston
 10/29/2018, Seattle
 2/3/2019, Bellingham
 2/7/2019, Bellingham
 4/8/2019, Pullman
 10/7/2019, Bellevue
 11/18/2019, Seattle Unincorporated King
 12/21/2019, Seattle
 1/27/2020, Union Gap
 2/6/2020, Everett
 2/6/2020, Seattle
 2/8/2020, Vashon
 2/9/2020, Yakima
 2/19/2020, Seattle

6/18/2020, Kirkland
 6/28/2020, Vancouver
 8/6/2020, Seattle
 8/23/2020, Seattle
 9/1/2020, Seattle
 9/12/2020, Seattle
 9/21/2020, Seattle
 10/17/2020, Union Gap
 10/19/2020, Ferndale
 10/20/2020, Seattle
 11/16/2020, Tacoma
 12/24/2020, Seattle
 1/12/2021, Seattle
 1/16/2021, Seattle
 2/4/2021, Kirkland
 2/4/2021, Seattle
 2/10/2021, Lacey
 3/14/2021, Seattle
 7/19/2021, Seattle
 8/9/2021, Seattle
 9/26/2021, Silverdale
 11/7/2021, Bellevue
 11/8/2021, Shelton
 11/18/2021, Spanaway
 11/29/2021, Olympia
 12/8/2021, Everett
 12/12/2021, Olympia
 12/15/2021, Everett
 12/18/2021, Seattle
 12/24/2021, Seattle
 12/30/2021, Seattle
 12/30/2021, Seattle
 1/4/2022, Vancouver
 1/12/2022, Seattle
 1/15/2022, Seattle
 1/15/2022, Seattle
 1/15/2022, Seattle
 1/15/2022, Port Angeles
 1/18/2022, Everett
 1/19/2022, Lynnwood
 1/23/2022, Seattle
 1/29/2022, Seattle
 2/5/2022, Bellingham
 2/7/2022, Seattle
 2/8/2022, Tacoma
 2/10/2022, Tacoma
 2/10/2022, Bellevue
 2/14/2022, Tacoma
 2/14/2022, Burlington
 2/17/2022, Lynnwood
 2/24/2022, Olympia
 2/28/2022, Bellevue
 3/10/2022, Seattle

3/14/2022, Tacoma
 3/15/2022, Tacoma
 3/15/2022, Tacoma
 3/16/2022, Bellevue
 3/17/2022, Covington
 4/7/2022, Belfair
 4/18/2022, Lacey

fired weapon:

9/12/2017, Seattle Unincorporated King
 11/21/2017, Spokane
 5/21/2018, Kirkland
 12/21/2019, Seattle
 2/8/2020, Vashon
 2/9/2020, Yakima
 11/16/2020, Tacoma
 1/5/2022, Seattle
 2/10/2022, Tacoma
 2/10/2022, Bellevue
 2/17/2022, Lynnwood
 2/28/2022, Bellevue
 3/14/2022, Tacoma
 3/15/2022, Tacoma
 3/15/2022, Tacoma
 3/16/2022, Bellevue
 3/19/2022, Tacoma
 4/18/2022, Lacey

weapons fire not indicated:

2/21/2017, Seattle
 6/24/2017, Seattle
 11/21/2017, Mountlake Terrace
 11/24/2017, Silverdale
 5/10/2018, Mountlake Terrace
 7/30/2018, Seattle Unincorporated King
 8/6/2018, Kingston
 10/29/2018, Seattle
 2/3/2019, Bellingham
 2/7/2019, Bellingham
 4/8/2019, Pullman
 6/12/2019, Seattle
 7/6/2019, Olympia
 10/7/2019, Bellevue
 11/18/2019, Seattle Unincorporated King
 1/27/2020, Union Gap
 1/31/2020, Seattle
 2/6/2020, Everett
 2/6/2020, Seattle
 2/19/2020, Seattle
 6/18/2020, Kirkland
 6/28/2020, Vancouver

8/6/2020, Seattle	12/24/2021, Seattle
8/23/2020, Seattle	12/24/2021, Seattle
9/1/2020, Seattle	12/30/2021, Seattle
9/12/2020, Seattle	12/30/2021, Seattle
9/21/2020, Seattle	1/4/2022, Vancouver
10/17/2020, Union Gap	1/12/2022, Seattle
10/19/2020, Ferndale	1/15/2022, Seattle
10/20/2020, Seattle	1/15/2022, Seattle
12/24/2020, Seattle	1/15/2022, Seattle
1/12/2021, Seattle	1/15/2022, Port Angeles
1/16/2021, Seattle	1/18/2022, Everett
2/4/2021, Kirkland	1/19/2022, Lynnwood
2/4/2021, Seattle	1/23/2022, Seattle
2/10/2021, Lacey	1/29/2022, Seattle
3/14/2021, Seattle	2/5/2022, Silverdale
7/19/2021, Seattle	2/5/2022, Bellingham
8/9/2021, Seattle	2/6/2022, Tacoma
9/26/2021, Silverdale	2/7/2022, Seattle
9/30/2021, Seattle	2/8/2022, Tacoma
11/7/2021, Bellevue	2/9/2022, Seattle
11/8/2021, Shelton	2/14/2022, Tacoma
11/18/2021, Seattle	2/14/2022, Burlington
11/18/2021, Spanaway	2/24/2022, Olympia
11/28/2021, Wenatchee	2/25/2022, Port Orchard
11/29/2021, Olympia	3/10/2022, Seattle
12/8/2021, Everett	3/17/2022, Covington
12/12/2021, Olympia	4/2/2022, Everett
12/15/2021, Everett	4/7/2022, Belfair
12/17/2021, Port Angeles	7/21/2022, Lynnwood
12/18/2021, Seattle	

END NOTES

- ¹ Screenshots from VIDEO: Factoria Marijuana Shop Robbery. KIRO 7 News Seattle, 17 Mar. 2022, <https://www.kiro7.com/news/local/video-factoria-marijuana-shop-robbery/5e357b30-93d9-463e-9dd6-8db7a6edbd3d/>. One of the suspects was later killed in a shootout with police, following a chase.
- ² Leach, L. (2021) Pot shop robbed in Port Angeles, Peninsula Daily News. Available at: <https://www.peninsuladailynews.com/crime/pot-shop-robbed-in-port-angeles/> (Accessed: December 6, 2022).
- ³ Affairs, P. (2021) Friday - December 24, 2021, SPD Blotter. Seattle Police Department. Available at: <https://spd blotter.seattle.gov/2021/12/27/friday-december-24-2021/> (Accessed: December 6, 2022).
- ⁴ Sullivan, O. (2022) Teen arrested in string of armed robberies; police search for 2 more suspects. Federal Way Mirror. Available at: <https://www.federalwaymirror.com/news/teen-arrested-in-string-of-deadly-armed-robberies-police-search-for-2-more-suspects/> (Accessed: December 6, 2022).
- ⁵ Cannabis Banking: Bridging the Gap Between State and Federal Law (no date) American Bankers Association. Available at: <https://www.aba.com/advocacy/our-issues/cannabis> (Accessed: December 6, 2022).

- ⁶ "I Hope He Never Sees The Light Of Day": OC Man Gets Life In Prison For Abduction, Torture Of Newport Beach Man (2020) CBS Los Angeles. Available at: <https://www.cbsnews.com/losangeles/news/hossein-naveri-kidnapping-torture-of-marijuana-dispensary-owner-life-sentence/> (Accessed: December 6, 2022).
- ⁷ Rep. Perlmutter, E. (2021) Safe Banking Act of 2021, Congressman Ed Perlmutter. U.S. House of Representatives. Available at: https://perlmutter.house.gov/uploadedfiles/safe_banking_act_of_2021.pdf (Accessed: December 6, 2022).
- ⁸ Smith, P.S. (2021) Key Senate Democrats Block SAFE Banking Act's Inclusion in Must-Pass Defense Spending Bill, Drug War Chronicle. StoptheDrugWar.org. Available at: https://stopthedrugwar.org/chronicle/2021/dec/09/key_senate_democrats_block_safe (Accessed: December 6, 2022).
- ⁹ Uncle Ike's i502 Robbery Tracker (no date). Uncle Ike's Pot Shop. Available at: <https://docs.google.com/spreadsheets/u/0/d/1cmthwU8xHzlwaCvFLSMBJwZ6TaG84aQtDSGyCe0f0fc/htmlview> (Accessed: December 6, 2022). Our analysis is based on incidents listed in the Uncle Ike's i502 Robbery Tracker Google Drive spreadsheet, and information sources linked to in the tracker.
- ¹⁰ Glenn, S. (2022) Two Teens Charged With Fatal Shooting at Tacoma Marijuana Dispensary — Warrants Issued, The Chronicle. The News Tribune. Available at: <https://www.chronline.com/stories/two-teens-charged-with-fatal-shooting-at-tacoma-marijuana-dispensary-warrants-issued.286776> (Accessed: December 6, 2022).
- ¹¹ Staff, K.5 (2022) One suspect shot, killed in Seattle after armed robbery at Factoria pot shop, KS. NBC King 5. Available at: <https://www.king5.com/article/news/crime/armed-robbery-pot-shop-factoria-police-chase/281-77196236-d211-45c1-9845-eb462aa29800> (Accessed: December 6, 2022).
- ¹² Staff, K.5 (2022) Employee shoots, kills suspect during attempted pot shop robbery in Covington, KS. NBC King 5. Available at: <https://www.king5.com/article/news/crime/one-person-dead-covington-robbery/281-9e2bed29-fc3d-48b6-adfd-59ff6f1ef641> (Accessed: December 6, 2022).
- ¹³ Insee, J. et al. (2022) SAFE Banking Act Letter, Washington State Department of Financial Institutions. State of Washington. Available at: <https://dfi.wa.gov/sites/default/files/safe-banking-act-letter-05-02-2022.pdf> (Accessed: December 6, 2022).
- ¹⁴ Bill Analysis, SB 5927 (2022) Washington State Legislature. Office of Program Research, Public Safety Committee, Washington House of Representatives. Available at: <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/House/5927%20HBA%20PS%2022.pdf> (Accessed: December 6, 2022). We agree that the state should take action on this issue and are sympathetic to what victims of these robberies have gone through. However, we agree with the governor, attorney general and others that mandating increased sentences from where we are currently is not likely to be helpful. The bill's reporting and consultation requirements seem useful.
- ¹⁵ Bunin, S. (2022) Pot shop protection bill fails to clear Washington Legislature, KS. NBC King 5. Available at: <https://www.king5.com/article/news/politics/state-politics/washington-pot-shop-protection-bill-fails/281-8291b14d-e710-49ac-b147-82aa47659852> (Accessed: December 6, 2022).
- ¹⁶ Charles, A. (2022) Second teen fugitive wanted in slaying of Tacoma pot shop worker arrested, police say, KOMONews.com. KOMO News. Available at: <https://komonews.com/news/local/second-teen-fugitive-wanted-in-slaying-of-tacoma-pot-shop-worker-arrested> (Accessed: December 6, 2022).
- ¹⁷ March 2010 National Victim Assistance Academy Participant Text (no date). Summarizing Resnick, H.S., D.G. Kilpatrick, B.S. Dansky, B.E. Saunders, and C.L. Best. 1993. "Prevalence of Civilian Trauma and PTSD in a Representative National Sample of Women." Journal of Clinical and Consulting Psychology 61(6). "Research suggests 25.8% of crime victims suffer PTSD during their lives (compared with 9.4% of victims of other traumas), and that lifetime prevalence could go as high as 45.2% for those who believed they could have been killed or seriously injured."
- ¹⁸ As videos linked on Uncle Ike's show, the "smash and grab" robbery can be carried out in one or two minutes.
- ¹⁹ "RCW 9A.52.020 Burglary in the First Degree." Washington State Legislature, <https://app.leg.wa.gov/rcw/default.aspx?cite=9A.52.020>. "A person is guilty of burglary in the first degree if,

with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a building and if, in entering or while in the building or in immediate flight therefrom, the actor or another participant in the crime (a) is armed with a deadly weapon, or (b) assaults any person."

²⁰ O'Flaherty, Brendan, and Rajiv Sethi. "Why Have Robberies Become Less Frequent but More Violent?" *Journal of Law, Economics, & Organization*, Vol. 25, no. No. 2, 20 Oct. 2009, pp. 518–534.

²¹ Hornsby, Rob, and Dick Hobbs. *Armed Robbery (Commercial)*. Oxford University Press, 19 Nov. 2020, <https://oxfordre.com/criminology/view/10.1093/acrefore/9780190264079.001.0001/acrefore-9780190264079-e-392>. "The shift from a cash-based economy towards a credit-constructed economic milieu witnessed the demise of craft crimes such as safe-cracking and the growth of project-based criminality such as armed robbery."

²² For example, from: Robert J. MacCoun & Peter Reuter, *Drug War Heresies: Learning from Other Vices, Times, and Places (RAND Studies in Policy Analysis)* 112-113, Cambridge Univ. Press 2001). "One harm of current... prohibition policies... that is unquestionably concentrated in inner-city communities and has serious long-term consequences ... is the extraordinary prevalence of drug selling. That selling not only produces massive incarceration rates... but also affects the viability of those communities in both economic and social terms."

²³ Debit card purchases in cannabis stores are usually done using cashless ATMs. These services are helpful so far as they get used, but their legality is borderline, and they charge high fees to both sellers and buyers.

²⁴ *Marilyn Macy, Data Science Consultant / Business Architect / Business Analyst*. <https://www.linkedin.com/in/marilyn-macy-958a17147/>.

²⁵ Uncle Ike's i502 Robbery Tracker (no date). Uncle Ike's Pot Shop. Available at: <https://docs.google.com/spreadsheets/u/0/d/1cmthwU8xHlwaCvFLSMBJwZ6TaG84aQtDSGvCe0f0fc/htmlview> (Accessed: December 6, 2022).

²⁶ White Center Pot Shop Robber Caught on Camera. KIRO 7 News Seattle, 18 Sept. 2018, <https://www.kiro7.com/news/local/white-center-pot-shop-robber-caught-on-camera/836198796/>.

²⁷ VIDEO: FBI Investigating Pot Shop Robbery. KIRO 7 News Seattle, 18 Nov. 2021, <https://www.kiro7.com/news/local/video-fbi-investigating-pot-shop-robbery/9ab76bf4-4d07-4b96-9c5a-4df08f8944d3/>.

²⁸ Robbery, according to the National Incident-Based Reporting System (NIBRS), is the taking of anything of value by force, threat of force, or violence. Burglary is the unlawful entry into a building with the intention of committing theft. Burglaries can be extraordinarily damaging to a business financially, and can even be very dramatic; for example when would-be thieves crash their cars into a business storefront to gain entry. But if it's a break-in and suspects have attempted to avoid contact with people in the store, it's not included in the list of robberies. Because burglars usually do avoid contact with people, the worker safety question relates primarily to robberies.

²⁹ The fact that certain types of robberies are infrequent now, doesn't automatically mean they will be in the future.

³⁰ In the formalism of statistics, one might instead state "null" hypotheses representing no difference between categories, then use statistics to attempt to disprove them; e.g. "cash robbery and product robbery are equally prevalent"; "cash-only, product-only, and cash plus product robberies, involve equal levels of aggression"; and "robberies targeting the back of the store involve equal levels of aggression to robberies targeting only the front of the store." One might also provide mathematical formulas representing one's hypotheses.

³¹ A "dependent" variable in statistics is one for which the distribution of values may vary according to the value of the study's "explanatory" variables. That is, the dependent variables may look different, on average, depending on the value of the explanatory variables. On its own, a relationship of this type does not prove a causal relationship. The lack of one, however, demonstrated with sufficient statistical confidence, would refute a hypothesis of causality. When we suggest a likelihood of causality in this report, it is based on qualitative analysis in combination with the statistical analysis.

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- ³² Winkel, Frans Willem, et al. "Repeat Criminal Victimization and Vulnerability for Coping Failure: A Prospective Examination of a Potential Risk Factor." *Psychology, Crime & Law*, Taylor & Francis, 2003, <https://www.tandfonline.com/doi/abs/10.1080/10683160308137>. Research indicates that a repeat victimization interrupts a person's healing process from the previous victimization, especially if it happens within a relatively short period of time.
- ³³ Norton, updated by Missy. *MJ Applicant List (CannabisApplicants12062022.xls)*. Washington Liquor Control Board, 6 Dec. 2022, <https://lcb.app.box.com/s/xak7x4tu9lr72hc6glutrnfyuke6hy8/file/1083910068276>. The LCB spreadsheet has 260 lines associated with King County. Some of them appear to list retail licensees who don't have stores at this time, and some are repeat listings at the same address, or in some cases of multiple suites in the same building. Excluding those from the total brought the number to 215.
- ³⁴ "KCSO Offense Reports: 2020 to Present." King County Open Data, King County, Washington, <https://data.kingcounty.gov/Law-Enforcement-Safety/KCSO-Offense-Reports-2020-to-Present/4kmt-ktqf/data>.
- ³⁵ Staff at Uncle Ike's have reported to us that police in Seattle are understaffed, and that it's mainly priority one incidents which get their attention.
- ³⁶ Pierce County, https://www.dropbox.com/s/xckgbr56gtbc56v/Pierce-County-Past_12_Months-04-04-22.csv.
- ³⁷ We carried out this analysis for incidents occurring from 1/1/20 – 4/4/22, grouping incidents by block and totaling the number of robberies by block. For blocks with N robberies, the upper bound number of separate locations that have had more than one robbery is $N/2$, rounding down to the nearest integer. The lower bound is zero. Because Uncle Ike's data indicates 22 marijuana stores having been robbed more than once,
- ³⁸ A 95% confidence interval means we are 95% certain that the "true" value of the variable lies within the indicated range. True in this context means we consider our dataset to be a sample from a hypothetical larger set consisting of all possible cannabis store robberies carried out under identical conditions to those in Washington at the time we're examining. Our confidence intervals were calculated using the Wilson-adjustment, via the `wilson.ci` function in the R programming language, `fastR2` package: <https://www.rdocumentation.org/packages/fastR2/versions/1.2.2/topics/wilson.ci>. The Wilson interval is considered safe to use with small or skewed datasets.
- ³⁹ The Fisher test is an exact calculation of association that is suitable for small datasets, as opposed to approximation methods that are appropriate for larger datasets.
- ⁴⁰ Simms, Ryan. "Shoreline Pot Shop Worker Survives Being Shot Six Times." KIRO 7 News Seattle, 15 Feb. 2022, <https://www.kiro7.com/news/local/shoreline-pot-shop-worker-survives-being-shot-six-times/RP5ZDNJ7DBFBPSEIWA1Q77QQU/>.
- ⁴¹ "Employee Shot in Robbery at White Center Pot Store." KIRO 7 News Seattle, 13 Sept. 2017, <https://www.kiro7.com/news/local/man-shot-in-attempted-robbery-at-white-center-pot-store/608535140/>.
- ⁴² Kauder, Rob. Police Arrest Starbuds Cannabis Robbery Suspect. *The Spokesman-Review*, 23 Nov. 2017, <https://www.spokesman.com/stories/2017/nov/23/police-arrest-starbuds-cannabis-robbery-suspect/>.
- ⁴³ "Employee Speaks out after Being Shot 6 Times during Shoreline Pot Shop Robbery." Fox 13 Seattle, 18 Feb. 2022, <https://www.youtube.com/watch?v=rwTCDX4v3il>. Quote at 2:54.
- ⁴⁴ BSA Expectations Regarding Marijuana-Related Businesses. Financial Crimes Enforcement Network (FINCEN), 14 Feb. 2014, <https://www.fincen.gov/resources/statutes-regulations/guidance/bsa-expectations-regarding-marijuana-related-businesses>.
- ⁴⁵ "McConnell Blasts Democrats Over Plans To Add Marijuana Banking To Defense Bill, While Schumer Defends It As 'Priority'." *Marijuana Moment*, 6 Dec. 2022, <https://www.marijuanamoment.net/mcconnell-blasts-democrats-over-plans-to-add-marijuana-banking-to-defense-bill/>. As of December 6, Democrats were discussing integrating the SAFE Act, along with other cannabis reforms into the National Defense Authorization Act (NDAA).

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- ⁴⁶ Castille, Kaliko. Marijuana Banking Reform Can Pass, And Here's How The Minority Cannabis Business Association Plans To Help (Op-Ed). Marijuana Moment, 30 Nov. 2022, <https://www.marijuanamoment.net/marijuana-banking-reform-can-pass-and-heres-how-the-minority-cannabis-business-association-plans-to-help-op-ed/>.
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- ⁵⁰ *Mitzi Vaughn, Shareholder*. Karr Tuttle Campbell, <https://www.karrtuttle.com/mitzi-vaughn/>.



Kirsten Sutton
Executive Vice President
Congressional Relations & Legislative Affairs
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May 3, 2023

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Hakeem Jeffries
House Minority Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and Urban
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Speaker McCarthy, Majority Leader Schumer, Minority Leaders McConnell and Jeffries, Chairmen Brown and McHenry, and Ranking Members Scott and Waters:

On behalf of the American Bankers Association (ABA), I am writing to express our strong support for H.R. 2891 /S. 1323, the Secure and Fair Enforcement Banking Act (SAFE Banking Act) of 2023 sponsored by Senators Jeff Merkley (D-OR) and Steve Daines (R-MT) and Representatives Dave Joyce (R-OH-14) and Earl Blumenauer (D-OR-03). This important legislation would help bring certainty to an important issue that has become a challenge for so many of our nation's communities and the banks that serve them.

The SAFE Banking Act is an urgently needed, and widely supported, bipartisan solution that will allow banks to handle not only the proceeds from both state-licensed cannabis businesses and the ancillary businesses—accountants, skilled trades, landlords, law firms, and other service providers—those businesses rely upon to operate, but also accept deposits from and make loans to employees of those businesses. Federal law currently prevents banks from banking cannabis businesses and these ancillary businesses, without fear of federal sanctions. As a result, this



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industry is operating primarily in cash, which is not only a public safety risk, but also undermines the ability for regulators, tax collectors, and law enforcement to monitor the industry effectively.

Financial institutions must adhere to stringent anti-money laundering and counter-terrorist financing reporting requirements, so bringing this industry into the regulated banking system will provide much-needed visibility into its financial activity. Processing transactions through bank accounts instead of in cash would ensure that regulators and law enforcement have the necessary tools to identify bad actors and also enhance tax collection and financial transparency in the thirty-seven states where cannabis is now legal at the state level.

While ABA does not take a position on the legalization of cannabis, our member banks find themselves in conflict between state and federal law, with local communities encouraging them to bank cannabis businesses and federal law prohibiting it.

The Controlled Substances Act (21 U.S.C. §801 et seq.) classifies cannabis as an illegal drug and prohibits its use for any purpose. For banks, that means that all proceeds generated by a cannabis-related or ancillary business, even when operating in compliance with state law, are unlawful under federal law, and so any attempt to conduct a financial transaction with that money (including simply accepting a deposit) can be considered money-laundering. Thus, banking cannabis businesses, or any of the non-cannabis focused vendors or businesses that serve them, places banks in the untenable position of dealing with these state-authorized businesses at significant risk of regulatory sanction, loss of access to the payments system or even the potential loss of the bank charter itself.

Currently, the only directive available to financial institutions in connection with cannabis-related accounts comes from guidance issued by the Financial Crimes Enforcement Network (FinCEN) in 2014. That guidance, which references a now-rescinded memorandum from the U.S. Department of Justice (the “Cole Memo”), describes how financial institutions can report cannabis-related business activity consistent with their anti-money laundering obligations. However, it merely creates a system for reporting activity that is illegal under federal law but otherwise legal under state law and does not create a safe harbor or otherwise modify federal law to protect banks from criminal and civil liability for providing financial services to state-sanctioned cannabis businesses.

The bipartisan, bicameral, SAFE Banking Act would provide that legal and regulatory clarity for banks and help facilitate access to financial services for state-sanctioned cannabis businesses while strengthening the ability of financial institutions and law enforcement to detect unlawful activity.

The bill specifies that proceeds from a state-sanctioned cannabis business would not be considered unlawful under federal money laundering statutes or any other federal law, which is necessary to allow the provision of financial services to state-sanctioned cannabis businesses as well as any ancillary businesses that derive some portion of their income from those businesses. The bill would also direct FinCEN, and the federal banking regulators through the Federal Financial Institutions Examination Council, to issue guidance and exam procedures for banks



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doing business with state-sanctioned cannabis businesses. Explicit, consistent direction from federal financial regulators will provide needed clarity for banks and help them better evaluate the risks and supervisory expectations for cannabis-related customers.

This legislation has garnered strong bipartisan support in both the House and Senate, and ABA urges all Members of Congress to please join in cosponsoring the SAFE Banking Act. ABA also requests swift consideration of these bills in both the Senate Banking and House Financial Services Committees, through regular order, and further advocates for swift passage by Congress.

Sincerely,

A handwritten signature in black ink that reads 'Kirsten Sutton'.

cc: Members of the U.S. Senate
Members of the U.S. House of Representatives



Thursday, May 11th, 2023

Hon. Steve Daines
U.S. Senate
320 Hart Senate Office Building
Washington, DC 20510

Hon. Dave Joyce
U.S. House
2065 Rayburn House Office Building
Washington, DC 20515

Hon. Jeff Merkley
U.S. Senate
531 Hart Senate Office Building
Washington, D.C. 20510

Hon. Earl Blumenauer
U.S. House
1111 Longworth House Office Building
Washington, D.C. 20515

Dear Sen. Steve Daines, Sen. Jeff Merkley, Rep. Dave Joyce, and Rep. Earl Blumenauer,

On behalf of the millions of activists we support at Americans for Prosperity, we write to express our support for the SAFE Banking Act of 2023 (S. 1323/H.R. 2891). We applaud negotiators from both parties for coming together to take a small but critical first step toward impactful and reasonable reforms that improve public safety and reduce the negative impacts of federal legal and regulatory uncertainty for so many Americans.

The American people overwhelmingly support changes to federal laws regarding cannabis and allowing states to make the best decisions for their citizens.¹ Recent polling shows that more than 70% of Americans support the specific provisions in this legislation.² But even in the face of this overwhelming support from voters, Congress has failed to take any action to end this “contradictory and unstable state of affairs [that] strains basic principles of federalism and conceals traps for the unwary.”³

Today, 21 states allow adults to use marijuana, and 38 have a medical marijuana program. States as diverse as Alabama, Connecticut, Montana, New Mexico, and Virginia have decided that complete prohibition is an imprudent policy for their citizens. But the resulting conflict with federal law leaves patients, doctors, entrepreneurs, and law enforcement with significant uncertainty. This situation undermines the credibility of federal law and the rule of law itself.

We look forward to working with you on continued Congressional action to restore state autonomy in this policy area. The SAFE Banking Act marks the first step towards providing regulatory and legal clarity for small businesses and citizens alike in multiple areas of the law. As we have previously stated, the clarity provided by the SAFE Banking Act alone will “help a

¹Ted Van Green, Americans overwhelmingly say marijuana should be legal for medical or recreational use, Pew Research Center (2022), <https://www.pewresearch.org/fact-tank/2022/11/22/americans-overwhelmingly-say-marijuana-should-be-legal-for-medical-or-recreational-use/>, Ipsos, *Two in three Americans support Biden's planned cannabis reforms*, Ipsos (2022), <https://www.ipsos.com/en-us/news-polls/usa-today-drug-policy-poll>.

²American Bankers Association, *ABA Unveils New Consumer Polling Data on Major Banking Policy Issues*, American Bankers Association (2022), <https://www.aba.com/about-us/press-room/press-releases/consumer-survey-major-banking-policy-issues>, Susan Kacholia, *A Majority of Voters Support the Provisions of the SAFE Banking Act*, Data for Progress (2022), <https://www.dataforprogress.org/blog/2022/11/28/a-majority-of-voters-support-the-provisions-of-the-safe-banking-act>

³*Standing Akimbo LLC v. United States*, 594 U. S. ____ (2021) (THOMAS, J., respecting the denial of certioram).

growing industry thrive and unleash tremendous economic opportunity for small businesses and entrepreneurs.”⁴

We applaud you for acting in a manner that does not impose a top-down mandate on states but instead empowers them to be successful in their policy choices. Most notably, this legislation will support the growing number of states seeking to improve public safety by removing the existing laws preventing entrepreneurs in these new markets from accessing vital financial and lending services that will allow them to shift from operating with large sums of cash to fully joining the 21st-century economy. Current laws leave otherwise law-abiding citizens at risk of becoming a victim of violent thefts given their inability to appropriately partner with financial institutions. This has resulted in significant increases in crime against cannabis companies which also disrupts community order and threatens the safety of every American in states with a medical or adult-use cannabis market.⁵

We sincerely appreciate your commitment to the important process of achieving bipartisan consensus in this critical policy area and wholeheartedly support the slightly revised SAFE Banking Act. This process was an example of how members of both parties can come together in ways that advance the wishes of the American populace and improve our federal policies. We stand ready to support the success of this legislative endeavor.

Brent Wm. Gardner
Chief Government Affairs Officer
Americans for Prosperity

Jeremiah Mosteller
Deputy Policy Director
Americans for Prosperity

⁴ Americans for Prosperity, *AFP Endorses SAFE Banking Act*, Americans for Prosperity (2021), <https://americansforprosperity.org/afp-endorses-safe-banking-act/>.

⁵ See e.g. Jim Walsh, South Jersey bank says cannabis cash nicked from armored car firm vault that held \$9.5 million, *Courier Post* (2023), <https://www.courierpostonline.com/story/news/local/south-jersey/2023/01/19/parke-bank-reports-theft-of-cannabis-customer-cash-from-vault/60820562007/>; Brett Davis, *Washington pot shop armed robberies at 10-year high as SAFE Banking Act fails*, *The Center Square* (2022), https://www.thecentersquare.com/washington/article_215700d8-86fd-11ed-adad-57f86ac10518.html.

Testimony Submitted by David Borden
Executive Director, StoptheDrugWar.org
to the
Banking, Housing, and Urban Affairs Committee
U.S. Senate
May 17, 2023

regarding

"Examining Cannabis Banking Challenges of Small Businesses and Workers"
May 11, 2023

I am the founder and executive director of the NGO StoptheDrugWar.org, and author of our December 2022 report, "[Dangerous Delays: What Washington \(Re\)Teaches Us About Cash and Cannabis Store Robberies.](#)"

Dangerous Delays is the first published study on the characteristics of cannabis store robberies. It was motivated by recurring reports of assaults on workers that follow a pattern: Robbers force workers to the back of the store, demanding they open the safe to obtain secured cash. Workers don't always know the combination, and robbers don't always believe them.

Dangerous Delays was also motivated by Congress's increased attention on the SAFE Banking Act in recent years, and by disagreements among legislators and advocates which delayed SAFE in the Senate in late 2021. Those debates, while focused principally on social equity concerns, also saw arguments made that had the effect of casting doubt on the role of cash in driving robberies of cannabis stores, or of the significance of cannabis store robberies as a whole.

While SAFE was stalling in the Senate, Washington State's cannabis community was in the grip of an unprecedented surge in armed robberies of cannabis stores. This occurrence, which began in November 2021 and lasted 4 ½ months, saw nearly 100 reported robberies affect roughly 80 cannabis stores, and ended with three people dead.

PTSD is believed to occur in 25% or more cases of criminal victimization.¹ This suggests that even those robberies which did not involve physical assaults on workers, are likely to have created numerous victims suffering lasting psychological effects. Criminal victimization within a community also generates fear and anxiety on the part of the rest of the community – these robberies affected the lives of workers and owners of other cannabis stores as well. Between the

¹ March 2010 National Victim Assistance Academy Participant Text. Summarizing Resnick, H.S., D.G. Kilpatrick, B.S. Dansky, B.E. Saunders, and C.L. Best. 1993. "Prevalence of Civilian Trauma and PTSD in a Representative National Sample of Women." *Journal of Clinical and Consulting Psychology* 61(6). "Research suggests 25.8% of crime victims suffer PTSD during their lives (compared with 9.4% of victims of other traumas), and that lifetime prevalence could go as high as 45.2% for those who believed they could have been killed or seriously injured."

directly targeted personnel, their friends and loved ones, and their at-risk colleagues, the impacted population numbers in the thousands.

Uncle's Ike's, a Seattle-based cannabis store chain, since 2017 has compiled robbery reports, and some burglary reports, in the "[Uncle Ike's i502 Robbery Tracker](#)." This unique resource is what enabled us to carry out the research done for this report.

Our analysis confirms that cash dominated as the target for cannabis store robberies in Washington. Product also played an important role, but almost always in combination with cash; whereas cash on its own was targeted as much as 40% of the time, based on the incidents for which we could determine what was targeted. We identified just one product-only robbery during the Washington surge. Most burglaries, by contrast, appeared to only target product.

In light of the pattern of assaults on workers described above, we classified robberies according to whether robbers targeted the back of the store, or limited their attention solely to the front. We also classified robberies according to four observed types of aggression that occur during armed robberies, which go beyond the minimum level of aggression inherent in robbery.

Using statistical correlation measures, we found for the time period of the surge that robberies targeting the back of the store involved elevated aggression more often, and exhibited a larger average number of different aggression types, compared with robberies limited to the front of the store. Examination of individual incidents found that in the great majority of cases, back of the store robberies only target the safe.

We also found, however, that weapons fire during cannabis store robberies is complex. The two worst shootings during the Washington surge were driven in part by the robbers' pursuit of cash, but also by physical altercations having ensued between robbers and the workers who were shot.

While researching this issue, we noticed that cannabis store robberies occur far more frequently in some places than in others. Broadly speaking, reports of them come out of western states far more often than eastern states.

Based on our conversations with business owners, we believe the explanation is that stores in the east are better able to financially afford effective security measures. In the west, there are many more stores per capita than in the newer cannabis states in the east, meaning more competition, which has brought down prices and profit margins, and has done so for many more years; and meaning each store draws a smaller market share and has a smaller cash flow for that reason.

Reducing costs for the industry as a whole – which SAFE is likely to be helpful for – can free up cash flow for small businesses to spend more on security and other needs. The most effective means for improving the financial health of small cannabis businesses would be to eliminate the 280E tax for cannabis.

Some of the misconceptions we've seen in this issue were on display in the Senate Banking Committee hearing last week, or in the written versions of witness testimony. For example, Kevin Sabet of Smart Approaches to Marijuana declared, "eliminating cash will never stop

marijuana dispensaries from being targeted for robbery: in the majority of cases, the burglars are there to steal marijuana, not cash."

Robbery and burglary are different crimes, and burglaries of cannabis stores don't provide information about what happens during robberies of cannabis stores. As our findings demonstrate, cannabis product was indeed the preferred target during burglaries in Washington, but cash played the more important role in armed robberies. Additionally, three data points are not sufficient to justify broad characterizations of any social phenomenon, even if selected through a randomized process.

I was also surprised by Sabet's suggestion that SAFE would lead to fentanyl traffickers making use of cannabis businesses' bank accounts for money laundering. I have never seen any indication of a nexus linking the illicit fentanyl trade and the state-licensed cannabis trade, nor have I seen the claim made before. This seems like a conjured concept.

It seems safe to presume that people involved in money laundering are not likely to prefer bank accounts associated with highly scrutinized sectors like the state-licensed cannabis industry. There are entire state agencies devoted specifically to monitoring cannabis businesses. Some of them might inquire where the apparent surplus funds came from. Money launderers would prefer bank accounts that are less likely to attract scrutiny.

Lastly, we are able to support much of what was recommended by another witness, our colleague Cat Packer of Drug Policy Alliance and Cannabis Regulators of Color. We support some of it very enthusiastically, especially measures to reduce barriers faced by people who have had justice system involvement.

Respectfully, however, we urge Congress not to adopt the revised statement of purpose suggested by Ms. Packer, at least as written. The proposal as written omits direct mention of worker safety. Congress should acknowledge the suffering of cannabis workers and the role an abnormal banking situation has played in contributing to it, especially at this time in which it's been seen just how serious this type of victimization can get. Doing so would also honor the intentions of congressional cannabis reform leaders who centered worker safety by introducing the SAFE Banking Act. If Congress adds a statement of purpose to the current version of the Act, the statement appearing in the SAFE Act of 2021 would be a better model to use for all or part of it.

Cannabis store robberies are a problem that varies in seriousness over time and place, but which is capable of erupting with force. Given the demonstrated humanitarian toll that is possible if an event as occurred in Washington were to recur, it is a moral imperative for Congress to enact legislation this year that progresses our country toward a safer environment for cannabis retail. We strongly urge Congress to enact a version of the SAFE Act this year – a broad one if possible, but a narrow one if needed.



Derek B. Williams, *Chairman*
Lucas White, *Chairman-Elect*
Jack E. Hopkins, *Vice Chairman*
Sarah Getzlaff, *Treasurer*
James H. Sills, III, *Secretary*
Brad M. Bolton, *Immediate Past Chairman*
Rebeca Romero Rainey, *President and CEO*

April 28, 2023

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Steve Daines
U.S. Senate
Washington, D.C. 20510

Dear Senator Merkley and Senator Daines:

On behalf of the Independent Community Bankers of America (ICBA) and the nearly 50,000 locations we represent, I write to express our strong support for the SAFE Banking Act (S. 1323). Your legislation would resolve a conflict between state and federal law and address a critical public safety concern. We are pleased that it enjoys strong, bipartisan support.

S. 1323 would create a safe harbor from federal sanctions for financial institutions that serve cannabis-related businesses (CRBs), as well as their numerous service providers, in states and other jurisdictions where cannabis is legal. [ICBA polling](#) conducted by Morning Consult found that two-thirds of voters support cannabis banking access.

S. 1323 is essential for the ongoing ability of community banks to effectively serve their communities. It would also alleviate the significant threat to public safety posed by cash intensive CRBs effectively being shut out of the banking industry. According to the same poll referenced above, 71 percent of voters agree that allowing cannabis-related businesses to access the banking system would help reduce the risk of robbery and assault at CRBs — showing the importance of the policy to public safety.

Thank you again for introducing this important legislation. We look forward to working with you to advance it into law.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

The Nation's Voice for Community Banks.®

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Suite 900 P.O. Box 267 866-843-4222
Washington, DC 20036 Sauk Centre, MN 56378 www.icba.org



May 9, 2023

Dear Senators Merkley and Daines and Representatives Joyce and Blumenauer:

We, the undersigned U.S. trade associations, write to express support for the SAFE Banking Act of 2023. Collectively, we represent a majority of the companies, agents, and brokers offering property-casualty, life, title, and reinsurance (collectively, “insurers”) in the U.S. We appreciate your leadership in seeking needed clarity for insurance transactions related to marijuana businesses that are otherwise permissible under state law.

The insurance industry is potentially exposed to liability arising from the differences of the legal treatment of marijuana and marijuana products under federal and state law and regulation at the state level. However, with the inclusion of key language from the Clarifying Law Around Insurance of Marijuana Act, sponsored by Senators Menendez, Paul, Tester, Daines, and Merkley and Representatives Velázquez and Davidson, the SAFE Banking Act’s safe harbor provisions would prevent federal criminal prosecution of and civil liability for agents, brokers, and insurers, their officers, directors or employees when engaging in the business of insurance in states that have legalized marijuana in some form.

By resolving the legal uncertainty presented by the dueling state and federal treatment of marijuana, the insurance industry can serve both State-sanctioned marijuana businesses and other commercial and personal lines consumers who may have a direct or indirect relationship to State-legalized marijuana, and still be in compliance with the law. Insurers must also continue to satisfy all applicable state statutory or regulatory requirements, such as those pertaining to consumer protections and claims payments.

We greatly appreciate your leadership, and we look forward to continuing to work with you and Congress to ensure our industry is not caught between conflicting obligations under federal and state law.

Sincerely,

American Land Title Association (ALTA)
 American Council of Life Insurers (ACLI)
 American Property Casualty Insurance Association (APCIA)
 The Council of Insurance Agents & Brokers (CIAB)
 Independent Insurance Agents & Brokers of America (IIABA)
 National Association of Mutual Insurance Companies (NAMIC)
 National Association of Professional Insurance Agents (PIA)
 Reinsurance Association of America (RAA)
 Wholesale & Specialty Insurance Association (WSIA)



TESTIMONY OF AARON SMITH

OF THE

NATIONAL CANNABIS INDUSTRY ASSOCIATION

BEFORE THE

UNITED STATES SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
EXAMINING CANNABIS BANKING CHALLENGES OF SMALL BUSINESSES AND
WORKERS

MAY 11, 2023

Chairman Brown, Ranking Member Scott, and members of the Committee, I am Aaron Smith, CEO and Co-Founder of the National Cannabis Industry Association (NCIA), the largest national trade association dedicated to protecting state-legal cannabis businesses, defending state laws, and advancing federal policy reforms on behalf of small and independent cannabis businesses across the country.

Founded in 2010, NCIA represents hundreds of member-businesses and tens of thousands of cannabis professionals committed to replacing criminal marijuana markets with a responsible and regulated cannabis industry. Our members comply with stringent state regulatory programs that protect public health and safety and proudly pay taxes that fund vital programs. On their behalf, we thank you for the opportunity to discuss our support for providing fair access to banking and financial services for state-licensed and lawful cannabis businesses.

Our industry currently supports hundreds of thousands of jobs while generating billions in annual tax revenue and tens of billions in economic activity. In 2022, states with regulated adult-use cannabis markets collected nearly \$4 billion in state tax revenue from legal sales.¹ This figure doesn't include millions more in medical cannabis taxes, local taxes, and licensing fees. It is estimated that licensed

¹ Data collected from 16 states with legal marijuana markets (AK, AZ, CA, CO, IL, MA, ME, MI, MT, NJ, NM, NV, OR, RI, VT, WA)

cannabis businesses paid more than \$3.2 billion in federal corporate income taxes and more than \$3.1 billion in payroll taxes in 2022, according to an analysis prepared by NCI chief economist Beau Whitney. These figures do not include taxes collected from the myriad of legal businesses that are ancillary to the cannabis industry.

38 states, three territories, and the District of Columbia now regulate the production and sales of cannabis for medical purposes. 22 of those states also license businesses that serve the cannabis market for adults over 21. Nearly three-out-of-four Americans live in a state with some form of legal cannabis and more states are expected to reform their laws in the years ahead, as legal cannabis programs are proving effective at curbing criminality, protecting public health and safety through regulation, and generating tax revenues for their communities.

The positive track record state cannabis programs have enjoyed for over a decade has translated into overwhelming public support for federal policy reform. For example, a Pew Research poll conducted in October 2022 found that 88% of Americans believe cannabis should be legal for either medical and adult use and only 10% believe it should remain illegal.² Significantly, this issue offers a bipartisan consensus that is too often elusive in the current era: For example, a Gallup survey conducted at the end of 2022 found that 68% of Americans support legalizing cannabis for adults, including 71% of independents and 50% of Republicans.³

Despite an overwhelming number of states that have made cannabis legal for either medical or adult-use and vast public support for reform, federal law continues to classify marijuana as a Schedule I drug under the Controlled Substances Act, a policy in conflict with both medical and adult-use programs that exist in the vast majority of U.S. states. As a result of this outdated classification and current federal banking regulations, state-legal cannabis businesses are unable to reliably access banking services.

Even businesses that simply provide products and services to the industry are often swept up in this banking ban. This includes law firms that help businesses navigate state regulatory programs, contractors that build secure cultivation and storage facilities, and the manufacturers of the child-proof packaging required for all legal cannabis sales. Non-owner employees of cannabis businesses are sometimes even denied home loans and other financial services for their participation in the industry's growing job market.

This situation forces many to operate in an all-cash environment putting employees and customers of cannabis retail centers at risk because these facilities are increasingly targeted for robbery. Several violent crimes and even murders have resulted from some of these robberies, causing several law enforcement officials to sound the alarm that the lack of banking services in the cannabis industry has become a public safety crisis.

The industry's lack of access to banking also poses an undue burden and safety risk on state and local tax and licensing authorities, which are forced to take large cash payments for the taxes and licensing fees that fund the enforcement of state marijuana laws as well as school construction, drug education activities, vital infrastructure programs, and more.

Current law also presents significant barriers for cannabis businesses that need to access traditional

² <https://www.pewresearch.org/short-reads/2022/11/22/americans-overwhelmingly-say-marijuana-should-be-legal-for-medical-or-recreational-use>

³ <https://news.gallup.com/poll/356939/support-legal-marijuana-holds-record-high.aspx>

financing and small business loans. This disproportionately impacts small and minority-owned businesses and Main Street businesses that often lack access to private capital and rely on traditional banking access. This has unfortunately led to a rise in predatory lending practices in the industry.

There is growing institutional support for federal national cannabis reform. In 2022, President Biden directed the Department of Health and Human Services to conduct a review of marijuana's classification as a Schedule I substance and several legislative proposals to end federal prohibition have been considered by Congress in recent years.

Comprehensive reforms that would align federal law with the growing number of states regulating cannabis and end the harms associated with decades of failed prohibition are sorely needed. However, the legislative process to achieve those reforms is likely to take several more years and the crisis states are facing due to outdated banking policy demands urgent action.

The Senate has a unique opportunity to solve the dangerous and unnecessary crisis by passing the Secure and Fair Enforcement (SAFE) Banking Act of 2023 recently introduced by Sens. Jeff Merkley (D-OR) and Steve Daines (R-MT) along with 37 original co-sponsors.

The SAFE Banking Act (S. 1323) is narrowly-crafted legislation that would allow financial institutions to do business with the state-legal cannabis industry without the fear of running afoul of Bank Secrecy Act provisions intended to apply to illegal drug transactions. The legislation would not change marijuana's legal status in any other way and would only open banking to licensed business entities operating in compliance with the stringent state regulations governing the industry.

The bill will improve transparency by ensuring more of the legal cannabis transactions are within the banking system and will allow the enormous taxes and licensing fees imposed on cannabis to be paid electronically. The Bank Secrecy Act and our nation's banking regulations are in place to prevent criminal actors from utilizing the financial system, not highly-regulated, tax-paying businesses acting in compliance with state laws.

More importantly, passage of the SAFE Banking Act will ensure cannabis businesses are no longer forced to operate on an all-cash basis making them a target for robbery. It's vitally important that Congress swiftly pass the SAFE Banking Act for the public's welfare and the safety of hundreds of thousands of employees currently working in the cannabis industry who are at risk because outdated federal banking laws barring their business from accessing credit card processing and even depository services.

The SAFE Banking Act has been endorsed by the National Association of Attorneys General, National Association of State Treasurers, the American Bankers Association, Credit Union National Association Independent Community Bankers of America, the NAACP, and Americans for Prosperity, United Food and Commercial Workers Union, and many more organizations and individuals with a stake in improving public safety, transparency, and equity in the cannabis industry.⁴

A bipartisan group of governors representing Colorado, California, Connecticut, Illinois, Louisiana, Maine, Massachusetts, Michigan, Nevada, New Jersey, New Mexico, North Dakota, New York, Oregon, Pennsylvania, Utah, Virginia, Washington, Wisconsin, and the Territory of U.S. Virgin Islands submitted a

⁴ <https://thecannabisindustry.org/wp-content/uploads/2023/05/SAFE-Banking-Act-One-Pager-031821.docx>

letter urging the last Congress to pass the SAFE Banking Act.⁵

The SAFE Banking Act has broad bipartisan support in the House where it has passed seven times in previous congressional sessions, with wide margins uncommon for any issue in the current partisan climate. Now it's time for the Senate to take action and approve this sensible legislation to protect our public safety, promote transparency, and provide relief to the small businesses and their employees.

Passage of the SAFE Banking Act will benefit everyone involved in legal cannabis markets as well as many outside the industry such as law enforcement, regulators, and financial institutions. However, this policy change will have an outsized positive impact on small, women-owned, and minority-owned businesses — including many licensed through various state social equity programs. It's these small businesses suffering the most from lack of access to capital and security risks created by the current federal policies.

Efforts have been made to insert additional social equity-related provisions to the SAFE Banking Act in the previous Congress. We recognize the crucial importance of social-equity related proposals but it needs to be stressed that the legislation, as currently drafted, would substantially advance equity in the cannabis industry on its own. Conversely, spending more time to build support for a more perfect version of the SAFE Banking Act will no doubt lead to more minority-owned, women-owned, and small businesses being forced to shut down operations. Worse yet, continued delays could very well lead to further loss of life from preventable robberies and violent crime. For these reasons, we urge the Committee and the Senate to act in the spirit of bipartisanship and pragmatism and pass the SAFE Banking Act without any further delay.

I want to thank the Chair, Ranking Member, and the Committee for your time to discuss access to banking services for cannabis-related businesses. This topic is important to all our members and the entire legal cannabis industry. On behalf of NCIA, I encourage this Committee to move the SAFE Banking Act through committee and to the Floor. Thank you.

⁵ https://drive.google.com/file/d/1ShHxatX5nv4eYrWoDrOoLIB8DI_Cnow/view?usp=sharing



Jim Nussle
President & CEO

Phone: 202-508-6745
jnussle@cuna.coop

99 M Street SE
Suite 300
Washington, DC 20003-3799

May 11, 2023

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Brown and Ranking Member Scott:

On behalf of the Credit Union National Association (CUNA), I am writing regarding the Committee's hearing, *Examining Cannabis Banking Challenges of Small Businesses and Workers*. CUNA represents America's credit unions and their more than 135 million members.

Credit unions exist to serve the financial services needs of their members, but the disparate treatment of production, distribution, sale, and use of cannabis under federal law and some state laws has discouraged them from providing services to businesses throughout the supply chain in states where cannabis is legal. In recent years, as various states have legalized cannabis for medicinal and recreational use, participants in the market have sought out credit unions to provide safe and affordable financial services. Currently, 38 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands have legalized medical cannabis programs while 22 states and the District of Columbia have legalized recreational cannabis.

CUNA takes no position on the legalization or decriminalization of cannabis at either the state or federal level. However, credit unions operating in states where it is legal have members and member businesses involved in the cannabis market who need access to safe and secure depository and lending services—the absence of which creates a significant public safety issue. A 2015 analysis found that, in the absence of being banked, one in every two cannabis dispensaries were robbed or burglarized—with the average thief walking away with anywhere from \$20,000 to \$50,000 in a single theft¹.

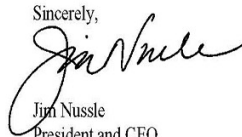
Additionally, even financial institutions that choose not to bank the cannabis industry still risk unknowingly serving those businesses in states where cannabis is legal. Indirect connections are often difficult to identify and avoid because like any other industry, those offering cannabis-related services work with vendors and suppliers. These are Main Street businesses like the printing company that makes a business card, the landlord that rents office space, and even the utility company that provides water or electricity. Under the existing status quo, a credit union that does business with any one of these indirectly affiliated entities could unknowingly risk violating federal law.

¹ "The Growing Need for a Cannabis Dispensary Security Plan," available at <https://image.slidesharecdn.com/bulbulyansecurityinfographic-150827003239-lva1-app6891/95/the-growing-need-for-a-cannabis-dispensary-security-plan-1-638.jpg?cb=1440635761>.

The SAFE Banking Act of 2023 would offer narrowly targeted federal protections for credit unions and other financial institutions accepting deposits, extending credit, or providing payment services to an individual or business engaged in cannabis related commerce in states where such activity is legal with a safe harbor, so long as they are compliant with all other applicable laws and regulations. Furthermore, the SAFE Banking Act provides a safe harbor to credit unions and their employees who are not aware if their members or customers are involved in this business. Many credit unions operate in states where their voters or legislatures have made cannabis legal in one form or another. Therefore, CUNA believes that financial institutions should be permitted to lawfully serve businesses that engage in activities authorized under their state laws, even when such activity may be inconsistent with federal law.

On behalf of America's credit unions and their more than 135 million members, thank you for holding this hearing and considering our views on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle", written in a cursive style.

Jim Nussle
President and CEO



3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

May 10, 2023

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

RE: Tomorrow's Hearing: "Examining Cannabis Banking Challenges of Small Businesses and Workers."

Dear Chairman Brown and Ranking Member Scott:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's Committee hearing, "Examining Cannabis Banking Challenges of Small Businesses and Workers." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 135 million consumers with personal and small business financial service products. With the recent introduction of the bipartisan and bicameral S. 1323, the Secure and Fair Enforcement (SAFE) Banking Act of 2023, we are pleased to see the Committee moving forward on this important issue.

As the Committee is aware, the vast majority of states have authorized varying degrees of marijuana use, ranging from limited medical use to decriminalization and recreational use at the state level. NAFCU has heard from a number of our member credit unions in these states that they are being approached by their members, or potential members, that have a small business in or are serving the legal cannabis industry in their state and are seeking banking services for their small business.

As the cultivation, sale, distribution, and possession of marijuana remains illegal at the federal level under Schedule I of the Controlled Substances Act, the majority of credit unions remain hesitant to provide financial services to these members and their small businesses. While the 2013 memo from U.S. Deputy Attorney General James M. Cole (Cole Memo) and the 2014 guidance from the Financial Crimes Enforcement Network (FinCEN) have attempted to provide clarity to financial institutions, uncertainty remains for financial institutions in this area. Guidance can be rescinded at any time, and, in fact, former Attorney General Jeff Sessions took action in 2018 to essentially rescind the Cole Memo. For financial institutions, such as credit unions, there are additional regulatory challenges that compound the uncertainty of providing financial services to state-authorized marijuana-related businesses (MRBs). These go beyond just concerns about criminal or civil penalties, but also extend to requirements related to proper

The Honorable Sherrod Brown
The Honorable Tim Scott
May 10, 2023
Page 2 of 2

Suspicious Activity Report (SAR) and anti-money laundering (AML) filings as required under the Bank Secrecy Act, access to federal deposit insurance and a Federal Reserve master account, and even potential issues with the Internal Revenue Service (IRS). Missteps in these areas could prove devastating to an institution. It should be noted that these risks also exist when providing financial services to ancillary businesses that provide products and services to MRBs and fall within the credit union's field of membership, even if the state-authorized MRB does not.

NAFCU does not have, and is not taking, a position on the broader question of the legalization or decriminalization of marijuana to any degree at the federal or state level. However, we do support Congress taking the steps found in S. 1323, the SAFE Banking Act of 2023, to provide greater clarity and legal certainty at the federal level for credit unions that choose to provide financial services to state-authorized MRBs and ancillary businesses that may serve those businesses in states where such activity is legal. While the SAFE Banking Act of 2023 does not address every issue on this front, it seeks to provide a safe harbor for financial institutions that wish to serve such businesses and would be an important step towards improving clarity and addressing what is often perceived as misalignment between federal and state laws. It is with this in mind that NAFCU urges you to support the SAFE Banking Act of 2023 and advance it in the Senate.

Thank you for your attention to this important issue. We look forward to continuing to work with you on this and other issues of importance to credit unions. Should you have any questions or require any additional information, please do not hesitate to contact me or Amber Milenkevich, NAFCU's Senior Associate Director of Legislative Affairs, at amilenkevich@nafcu.org.

Sincerely,



Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Senate Banking, Housing, and Urban Affairs Committee

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

Buddies is a multi-state operator and currently the top selling brand in Oregon. We employ hundreds of employees in Oregon, Washington, California, and Nevada. We are deeply affected on a regular basis from the lack of proper banking. While we do have some limited options at credit unions such as MAPS, the costs of a checking account with MAPS is exorbitant and it is highly invasive to get an account. They have to do an on-site visit/audit in order to get an account. It's Crazy. The result is that most cannabis businesses don't have a bank account because of these unfair practices and as a result we are dealt with significant amounts of cash.

Buddies operates as a third-party logistics company and we have 7 full-time drivers going around Oregon every day. They work in unnecessary fear of robbery on a daily basis. As you know, two cannabis workers were murdered in cold blood over the last two years (one in Portland and one on the south coast) – both of which were shot in the face. All over easily accessible cash because no dispensaries can accept credit cards.

Our drivers, like budtenders, handle large amounts of cash. We had an incident where one of our drivers in California was followed after leaving a dispensary. Unfortunately, the driver had a large amount of cash on him at the

time. The assailants waited for a good opportunity - when the driver went to use a restroom at a gas station. They smashed a window and rifled through the van until they found what they were looking for: Nearly \$250,000 in cash. The money was never recovered.

In a separate incident in Oregon, we were broken into just after midnight earlier in January this year. This was done by a former employee with knowledge of our internal processes, and they were able to crack out safe and take \$113,000 in cash. We were fortunately able to figure out who it was with the help of Milwaukie PD and are still waiting for the trial.

In both cases, we are still required to pay federal income tax on these robberies due to the horrendously unfair tax code that is 280E. It's hard enough to stay in business in cannabis without 280E. If we at least had safe banking, a significant amount of risk to our employees and our businesses.

To illustrate just how unfair 280E is, I would like to share a personal story. In 2017, I opened my first cannabis wholesale business. After a successful launch, we did quite well for a tiny business in 2018. Until I saw my tax bill. I took \$0 in distributions from my business, but due to my inability to deduct anything outside of cost of goods resulted in a tax liability greater than my net profits. As a result of k-1 distributions in taxes to my personal income tax, I had to pay \$60,000 in taxes for \$0 in distributions. This wrecked us and we shuttered our doors in 2019. This was devastating - I lost my business, any income opportunity, and went deep into debt to keep my family off the street. To add salt to the wound, I was unable to file for bankruptcy as there are no bankruptcy protections for individuals who own cannabis assets in the United States of America. I later settled 7 lawsuits over the next 3 years and was finally able to claw my way out of that terrible hole I found myself in.

In any case, I deeply appreciate the work Senator Merkley has put in for our industry. Thank you so much for your support of Americans in the cannabis industry. We need you more than ever.

Sincerely,

Colin Hobbs

Chief Revenue Officer

colin@buddiesbrand.com

503.530.6620

(He|Him)



May 8, 2023

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

To Whom It May Concern:

I am writing for Southern Oregon Family Farms Cooperative and the Oregon Cannabis Industry, supporting the SAFE Banking Act of 2023.

It is poignant that the opportunity to show my support has presented itself. Our farmer cooperative was denied a cannabis bank account just today because our Co-op requires an OLCC license. Previously to that, we were denied accounts at traditional institutions because we were considering taking support from licensed companies. At no point were we considering drug trafficking. Essentially, current banking laws have made it so we cannot exist. Banking requirements are a constant burden on the cannabis industry in Oregon.

Oregon farmers are disenfranchised, and consolidation is rampant. Something must give before Oregon loses its diversity within the cannabis business.

Sincerely,

Justin Botillier
Calyx CPA
221 W 10th Street
Medford, OR 97501

A handwritten signature in black ink, appearing to be "JB", written over a light blue horizontal line.

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

As a 58-year-old business owner of several business, with a 7-year membership to CEO Group Vistage, and 15 years at CEO Group YEO, I have had extensive training in entrepreneurship.

The PAIN and weight on my shoulders with no bank for any of my businesses I was not trained for!

Although it's my business training that has allowed me to remain operational by implementing MANY BEST PRACTICES, I do not know how long I can sustain the negative cash flow.

If I had a mortgage on my home and store, rather than private money, my monthly payments would have been \$2500/month, rather than the \$8,000/month currently paid which will go up in 6 months. This loss of \$5,500/months, over the past 5 years equates to \$330,000 loss.

Due to the lack of banking and wasted cash flow:

1. I have been penalized over \$30,000 for getting kicked out of banks and paying penalties on my IRA's
2. Only 2 employees are working and I work 7 days/week so I can make payroll.
3. None of my business currently have a bank, this is a HUGE issue!
4. A business loan would allow me to float me inventory which at the moment would help greatly!

5. I feel like a sub culture human not part of society and its embarrassing

SUMMARY: A proper mortgage would have relieved all Pain and fixed 100% of my financial issues.

Sincerely,

Robert Weinger, President

541-816-4209

Cannabiz Experience, Medford OR

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Greetings,

I am writing on behalf of CannXperts, an ancillary Licensing & Compliance small business in Oregon in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like CannXperts to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like ours the ability to open bank accounts freely, access insurance and business loans, take credit cards for payment online, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for CannXperts because we have to work in a secretive way with our actual bank for fear of getting shut down. (Think about all the ways the bank is tied to daily Operations). We also have clients with large sums of money that need to pay their bills and that is also a security risk for everyone.

We actually **got fired from our old LPL Financial RETIREMENT** due to their compliance team Googling our names and seeing that we owned our *legal business*. This was a state of panic like no other because not only had we NOT given cannabis money into our retirement funds (the funds were from when we worked in Law Enforcement and Health Insurance), but there was going to be a penalty for early withdrawal if we couldn't find another place to put the retirement funds.

The same goes for our employees - trying to get qualified for home loans, or other necessary financial abilities. It would be nice not to feel like we are criminals in hiding and use our ABN freely since we pay all of our taxes, payroll taxes, and follow the rules of normal small businesses.

All of this and we don't grow or sell cannabis - we are Licensing & Compliance experts helping the legal industry stay compliant!

For small legal cannabis businesses to thrive in a challenging cannabis landscape,
we need the SAFE Banking Act.

Sincerely,
Sam Shelley, COO
CannXperts

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators Merkley and Brown.

I am writing on behalf of my company CascadeHigh Organics in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like mine to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for me, James Schwartz and my company, CascadeHigh for many reasons but I will identify two specific examples that have been particularly emblematic of the frustration with not having access to legal banking. The first example is, one of the investors in CascadeHigh who is a prominent pediatric dentist in Oregon with multiple locations and makes more than a million dollars a year personally. About 4 years ago that dentist wanted to remodel his kitchen and use a HELOC or home equity loan to remodel. His bank denied him a home equity loan because he was an investor in a cannabis company. A dentist, in the community caring for kids, who makes more than a million dollars a year couldn't get a home equity loan because he invested in a cannabis company. This prevents further investment because investors get nervous how it creates problems for their other interests.

The second example comes more on the back end, after 8 long years of losing money in the hardest industry to be a part of as a businessperson, I wanted to sell my farm and get out, but because it's a cannabis business it limits sales of the property to only people looking to buy a cannabis property with private money. This limits my access to buyers who might otherwise buy the farm simply as a residential property/hobby or specialty farm. But if there is a cannabis license on the property it can only be sold on the private market. As any wise investor knows, the cannabis industry in Oregon has its struggles with supply and that has negatively affected everything. So now even as I'm trying to get out, investors only want to pay pennies on the dollar because they know businesses are limited in who they can sell to because buyers can't get bank financing for the property. If banking weren't an issue many small businesses would be in a much better position to deal with this market and industry.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

James Schwartz Msc, BSN, LNC

CEO CascadeHigh

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Representatives,

I am writing on behalf of Cultiva Law in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Cultiva Law to access the financial services we need to keep our employees and communities safe.

The Safe Banking Act will allow businesses like the one I work for to accept payments from Clients in non-cash form and make it much safer for employees to make deposits.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Tara Griner
Paralegal Cultiva Law

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

I represent a tier 2 cannabis grow, a minority owned business in Oregon.

We need this bill passed for the long-term protection and sustainable growth of the industry.

Let me give you first hand experiences that we all face due to the lack of adequate banking access.

What I am about to tell you is not uncommon but more common than it needs to be due to the issues we face.

Since we are a cash-based business, as business operations we are constantly being taken advantage of by industry players.

I will cite a recent occurrence that has happened to our operations.

A long time 5-year trusted employee we discovered was skimming both the sales price and pocketing over 10% of the sales price to his own pocket. Since it is cash, any sales person can fudge the sales price and pocket cash. It can take a long time to discover this. Non-recoverable and most jurisdictions will not prosecute due to it being cannabis. The cash is too tempting and they know it is hard to detect and then hard to prosecute them

If we had solid banking, customers' monies can be transferred via normal payments, wire, ach or check. It would all be eliminated. In our case we think this person took in excess of a quarter of a million dollars from our operation in the last 3 years.

We pay a premium for banking services. 300 percent more than an average business to have access to standard banking that only allows us to deposit and write checks with no loans or financial help.

If we need funding for any of this, we pay a premium for the money, ridiculous fees ranging from 15 to 30% for short term funding. We are forced to pay cash or go without critical equipment that would improve our bottom line or buy substandard or used equipment.

We cannot get funding for property so we are forced to pay landlords premium rents for our facilities. Business is hard enough on all of us then you add this huge impediment, not surprising there is a huge failure rate and most of the growers turn to the black market to survive.

We need this passed for the survival and growth of this industry.

Sincerely,

Michael Busher

DeTerra LLC

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

I am writing on behalf of the Oregon cannabis industry in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Dreamfield Transfer Services to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Dreamfield because we pay \$400/month to have a checking account. Exorbitant fees like these are what makes it so hard to succeed in the recreational market and further propels the illicit market.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Nicholas Erler

Founder & CEO

971-803-7374 Ext. 201

www.dreamfieldservices.com

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

I support the SAFE Banking Act and have since I became owner Of Flowr Of Lyfe LLC dispensary in Eugene, OR in 2015. I had the pleasure of meeting Sen Merkley in 2016 and strongly support him on this matter. WE need access to banking to prevent theft and holdups yes but also to be able to get merchant services and loans as well as access to real estate locations where the landlord doesn't have to worry about his mortgage being called out. We also could run our payroll more efficiently and keep more thorough records for state regulatory agencies or the IRS. This industry has already become normalized for years so it's time to stop impeding the natural progress and protect the public. I still have to drive 2 hours just to deposit our monthly sales tax we generate on behalf of the State of Oregon. It actually ends up in a US Bank I believe so please let's address this dire situation way past the need for attention. We need our customers to be able to legally use credit cards here. When we move from this location downtown destroyed by the unaddressed homeless situation we need to be able to find someone who can rent to us without worrying they may have to pay their entire mortgage loan when the bank finds out. This is in everyone's interests including the banks, the government and the public...the definition of a no-brainer.

Sincerely,

Morgan Glenn
Owner Flowr Of Lyfe LLC

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senator Brown,

I am writing on behalf of Going Green Albany Inc. and Growing Green Farms Inc. in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Going Green Albany, Going Green Grand Ronde, Going Green Eugene, Going Green Sweet Home, and Growing Green Farms to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Going Green Albany Inc. because I have personally witnessed the risk that is incurred every day by businesses and their employees in the legal marijuana industry. This significant risk is due to marijuana businesses being forced to house and transport large amounts of cash in order to carry out business without proper access to FDIC banking. There are also many businesses that have been forced to pay their employees in cash, creating a risky situation for employees who then may have large amounts of cash on their persons prior to depositing. The lack of safe access to banking creates a huge risk of harm to marijuana businesses and their employees by way of being targeted for theft, substantial financial loss which may not be able to be recovered through insurance, and quite possible physical harm, injury or even death due to armed robbery. You just have to look at the dangers that marijuana businesses in large areas like Portland have suffered to see the many examples of risk I have listed above.

Furthermore, many employees of marijuana businesses are disenfranchised from access to personal banking due to the restrictions. Many have had their personal bank accounts closed due to association with their employment at establishments that are operating under completely legal circumstances and paying substantial state and federal taxes to do so. I have personally been denied access to money orders by a store manager who asked and was honestly answered what the money order was for, which was intended to pay our businesses payroll taxes. Not to mention access to basic home and auto loans when the banks verify employment. It is very obvious that the lack of safe banking access is placing undo risk of harm, financial loss, and limited access to the same services and protections that are afforded to every other business industry in the USA.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Patricia Dennis (Human Resources & Public Relations Manager

Going Green Albany, Inc.

Growing Green Farms, Inc.

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510
Dear Senator Merkley,

I am writing in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Green Goddess Remedies to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Green Goddess Remedies, in the past 10 years, I've had over 15 bank accounts. It is disruptive to business to continually have bank accounts closed. It is equally appalling to be forced to pay \$800-\$1,200 for a basic checking account with the few banks that do offer cannabis banking. This kind of added cost is difficult to sustain, in an already challenging industry.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Sally Bishop

Owner

Green Goddess Remedies

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•
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•
•
•
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Portland, OR 97209
Tel: 503.227.6688
Fax: 503.227.5941
e-mail: info@huserintegrated.com

HUSER INTEGRATED TECHNOLOGIES

May 9, 2023

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

I am writing on behalf of common sense in support of the SAFE Banking Act of 2023. As you are aware, the SAFE Banking Act would allow legal businesses to access the financial services they need to keep their employees and our communities safe.



I come to this not as a grower, purveyor, processor, or investor but as a Security Professional with clients in the Cannabis Industry as well as multiple other Industries that run the gamut of Health Care, Retail, High Tech, Heavy Industry, Education, etc., and none of them face the financial and Banking challenges that those involved in the Cannabis Industry face. It is simply not safe to operate in a cash only environment nor is it equitable for a legal business to face these obstacles.

The SAFE Banking Act would give these legal businesses the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety. As a by-product of the current system our staff is put at risk when we accept large cash payments and must transport them for deposit.

Finally, the Cannabis industry employs thousands of people, and the majority of our clients are small businesses that simply wish to operate under the same financial system enjoyed by every other business including our own. For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Thank you for your time and consideration.

W.C. Nichols

Huser Integrated Technologies

The Honorable Jeff Merkley

U.S. Senate

Washington, D.C. 20510

The Honorable Sherrod Brown

U.S. Senate

Washington, D.C. 20510

First off, my wife, brother, and myself started Kaleafa in 2014 with 150K and a dream to become the best in class Cannabis Dispensary in Oregon. We currently sit between the 3-5th largest dispensary, by revenue, in the State with 8 Oregon locations, another 3 managed Washington Locations, and 160 employees. I believe we are the only MSO in both Oregon and Washington since my brother lives in Kirkland and I reside in Oregon City.

I cannot begin to explain the challenges we have faced without Fair and Safe Banking. We struggle each month under the weight of high interest payments, short term payoffs, no lines of credit, and an unyielding 280E, and an overtaxed industry the government fails to recognize legally. Moreover, the industry lacks traditional safeguards with insurance companies, payroll companies, inventory management software, etc. Everything we do has come hurdle and yet we pay exorbitant amounts of money to barely stay above water. Not to mention bank loans for anyone in the industry (my entire family was thrown out of Wells Fargo after 20 plus years and we did not run a single cent of the business through the accounts, just our family funds) has created hardships for many associated with Cannabis.

We currently have a 8mm loan with a 3 year amortization at 16.5%. Everything we have is liened and backed by personal guarantees. I live under the constant stress of keeping above water and I have started to wonder "if the long game is worth it". I left a job selling Orthopedics Implants after 13 years to own my own business, and could have been set to retire by 62 if I had not gone down this path. Now I spent my days wondering how to protect my assets if everything goes

south as the current Note is barely affordable to. Worst part is, we took this loan when the market was red hot with Covid and now we have seen a 30% plus drop in market re-alignment so the prior decision to take the loan was sound, but based on false market numbers.

I can go on and on so let me know what additional you might need and I can get down to Salem or DC if it helps the cause. I have a marketing degree from PSU so speaking articulately to the issues will not be a problem.

Thanks

John Widmer

Kaleafa Cannabis (and a royalty partner to Whiz Kaleafa so our brand has some notoriety)

President of Procurement and Inventory

503-869-6240

HAYER & ASSOCIATES

ATTORNEYS AT LAW

210 SW Morrison St.
Suite 500
Portland, Oregon 97204

Kohel Haver
Direct Line (503) 295-2787
kohelhaver@gmail.com

May 9, 2023

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators Merkley and Brown

I am writing on behalf of my friends and clients in the cannabis business in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses to access the financial services we need to keep their employees and communities safe.

The SAFE Banking Act would give businesses the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety. I remember a few years ago Senator Merkley rode with a business owner with a backpack full of thousands of dollars in cash driving it in person to pay the state tax assessment. This is a trip regularly made by everyone in the business.

This legislation is crucial because under the current system these businesses can only deal with cash, making them vulnerable to theft, loss, robbery, and a string of crimes where law enforcement is overwhelmed by cases, reported or many unreported. One business owner of a retail operation told me they deal with a theft of thousands of dollars every week. Law enforcement does not have the resources to pursue every case. This could be solved in part by passing Safe Banking.

Another client and friend was unable to open a bank account because the business was involved in providing legal counsel to cannabis businesses and individuals. When law offices are involved in defending individuals accused of various violent crimes, they have no trouble opening a bank account, getting a loan to finance their business expenses, but in these cases providing advice and counsel regarding the legal and appropriate manner to operate a business complaint with the state law was a bar to opening an account. It's both absurd and unfair. As more states recognize the legitimacy of these businesses, we need a consistent law and a national SAFE BANKING POLICY

Thank you for your work. .



The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

As an owner of a small business in the state of Oregon not being able to utilize normal banking as any other business can is UNSAFE, UNFAIR, and plain out UNAMERICAN.

As a cannabis business we are forced to carry large sums of cash which is very dangerous. To even have a bank account first you have to get on a wait list and there are only two credit unions I know of in the entire state of Oregon that will even accept our cash and allow us to have any banking option. The closest branch is nearly a 40 minute commute from my business in Portland, Oregon. Carrying large sums of cash is dangerous and takes a nice chunk out of the work day just to deposit money. It also costs \$400 per month (down from \$500 per month that it used to cost) just to be able to have a bank account. There are no normal loans offered to cannabis business's from the bank and only available from private lenders that charge an extremely high interest rate if you can even secure one. As an owner I have personally had my normal Bank account closed down, multiple credit cards including my Amazon card, Southwest Airline, and United Card all closed down at once with no explanation other than my profession. I have had home loans pulled from me at the last minute when the bank discovers my profession and the \$400 a month credit union will not even offer a home loan to cannabis customers. Even after having pre approval letters from national banks, good credit and an acceptable debt/income ratio I have been denied home mortgages.

We pay taxes, offer good paying jobs and contribute to our local economy and are simply asking to be treated like any normal business...because we are.

I would ask Congress to please consider the normal hard working Americans that make up the Cannabis industry and please begin to treat us equally and allow us to be safe at work and pursue the American Dream by allowing banks to work with us to secure business and home loans jsut like every other American.

Sincerely,

Jon, Kola Brand

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

The need for banking services to any small or large business is fairly obvious. Without access to banking services purchasing of raw materials and selling of goods becomes more cumbersome and time consuming and for large capital purchases practically impossible. It is also becoming more expensive and creates security risks to move large amounts of cash.

It is not only direct cannabis businesses that are affected. We had an agricultural supply shop for 12 years and had a long-standing relationship with Bank of America. We had a \$60k line of credit to buy goods with. Two years ago, we received a letter that informed us that our accounts were being closed and would be frozen within 10 days. When we inquired as to why we were told that our signing documents contained a clause that they could close our accounts at any time without cause or reason. After pressing the bank manager, he confided that it was probably due to a suspicion that our business had a large amount of cannabis related customers. This was the first of several factors that led to our closing the business.

Our licensed cannabis farm has been financed with our retirement accounts. It was not economical to take the loan shark rate loans that were available. (>20%) We are now in a position where we are leveraged so much we can't afford to fail. Prices for our products are down 60% from 7 years ago. New testing requirements are adding costs and forcing us to alter growing practices on the fly to meet new

standards without any phase-in period. We need to grow to get to the economies of scale, but we are trapped without access to reasonably priced loans.

We were able to secure a MAPPs Credit union account after 4 years of being in business, but this only offers us a debit account and costs us \$500/month. It is also inconvenient as we need to travel 1 hour to get to a branch to make either cash deposits or withdrawals. We are afraid to make any direct bank to bank transfers for fear that our other bank may determine that our Mapp's account is a cannabis related business and freeze our personal accounts.

The lack of banking increases the costs of any other services or products quoted to us such as insurance, cleaning, maintenance, security and on and on. Other businesses raise their prices for like and similar products and services when they know we are a cannabis business.

We would only ask that we be treated like any other industry and maybe take some of the power away from the banks like unilateral closing of accounts.

Michael Kirschnick, Love Life Farms

Lovelifefarms@gmail.com



The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

May 9, 2023

Dear Senators Merkley and Brown,

I am writing on behalf of Maps Credit Union ("Maps") in Salem, Oregon where I serve as Chief Operations Officer and as the executive responsible for overseeing our cannabis banking program. We have been serving Oregon's cannabis industry since 2014. I testified in favor of the SAFE Banking Act before the House Subcommittee on Consumer Protection and Financial Services in February 2019 and the Senate Committee on Banking, Housing, and Urban Affairs in July 2019 on behalf of the Credit Union National Association (CUNA).

Today, Maps still faithfully serves Oregon's legal cannabis industry, and we provide deposit products and services to over 500 Oregon businesses. We have collected over \$2.6 billion dollars in cash deposits from cannabis businesses since our tracking began in 2016. We've seen this industry through many ups and downs and have shared its immense frustration with the lack of access to traditional and safe payment methods, such as credit and debit cards, in its stores. In fact, Maps offered online bill payment to the cannabis industry up until last summer when our service provider forced us to cut off access to any cannabis business due to a mandate from the provider's supporting bank. This meant our cannabis business members no longer had access to this safe and cashless payment method within online banking.

Nearly ten years after FinCEN's *BSA Expectations Regarding Marijuana-Related Businesses* ("FinCEN Guidance") was issued, the time is long overdue for state sanctioned cannabis businesses to have access to the mainstream economy. In complying with the FinCEN Guidance, Maps has filed tens of thousands of Currency Transaction Reports and thousands of Suspicious Activity Reports since 2014—providing vital information to law enforcement that would otherwise be unavailable.



Maps Credit Union • P.O. Box 12398 • Salem, Oregon 97309
P 503.588.0181 • 800.688.0181 F 503.588.0665 W mapsccu.com



We have chosen to serve the legal cannabis industry because it is the right thing to do for the safety of our community, but it is undeniable that we operate in peril of criminal prosecution for facilitating the financial transactions of a federally illegal industry. While Maps takes no position on the legalization of cannabis, we strongly believe that legal businesses in our state deserve access to the financial system. Frankly, it is common sense.

Maps Credit Union proudly supports the SAFE Banking Act of 2023, and I am happy to answer any questions you may have.

Sincerely,

Rachel M. Pross
Chief Operations Officer
Maps Credit Union



Maps Credit Union • P.O. Box 12398 • Salem, Oregon 97309
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The Honorable Jeff Merkley

U.S. Senate

Washington, D.C. 20510

The Honorable Sherrod Brown

U.S. Senate

Washington, D.C. 20510

Dear Senators,

I am writing on behalf of multiple clients in the cannabis industry in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like my clients to access the financial services they need to keep their employees and communities safe.

The SAFE Banking Act would give businesses like my client's the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for those in cannabis business. One of my clients has had their stores robbed multiple times, more than once by gunpoint, because it is known that cannabis dispensaries are nearly all cash. There has been an instance of an employee being murdered during a robbery of a dispensary on the Oregon coast. Employees do not feel safe, which leads to a higher than average turnover rate, which leads to increased costs in an industry that is already so heavily taxed that most are struggling to stay afloat.

When you consider the logistical challenges of being an all cash business, it seems nearly insurmountable. Unlike banked businesses, the cannabis business owner faces unique challenges in everyday situations as simple as paying utility bills, or payroll.

- Instead of logging online and paying a utility bill, these folks have to either drive to a paycenter and pay in cash, or buy money orders to fill out and send. If they need too many money orders (due to limits on how many can

- be purchased at one time) they may have to make multiple trips to various money centers like Walmart or Walgreens.
- To pay their employees, they have to fill paychecks with cash, and take extra steps to ensure they have proven that the employee has been paid (no cashed checks for proof)
 - To pay their Federal payroll tax, they must go to the Federal building, where they are allowed to only bring a certain amount of cash in per appointment (and appointments can be limited to one a month, so many of my clients remain behind on their tax due to this policy). Even if they are able to pay in full during their one monthly appointment, they will still be penalized as this is considered by the IRS as an "improper payment" as all tax payments are supposed to be made through EFTPS, which requires the client to have a bank account.
 - To pay their marijuana taxes and state payroll taxes, they must drive to DOR in Salem, toting sometimes hundreds of thousands of dollars in cash, each month. Some owners are driving in from Eastern or Southern Oregon. Consider the absolute peril these folks are in as they drive across our state with hundreds of thousands of dollars in cash in their vehicle! Would any of you want to do that? Would you feel safe?
 - Their own personal accounts are constantly shut down, due to making cash deposits of their own paychecks..
 - The employees are also targeted on bank accounts; I'm aware of several instances where employees had their accounts closed down because of making cash deposits for their paychecks.
 - There is a bank in Oregon that allows banking, at a current fee of \$400 per month per account. It is a rigorous and time consuming process to be allowed to open an account with them, and they basically treat the customer like a criminal. They no longer allow the customer to be present when their cash deposit is counted; instead it is to be dropped off and will be credited to the account after 2 days (how many of you would be comfortable leaving large cash deposits to be counted out of your eyesight and only credited to your account after 48 hours?) There are NO SERVICES offered by this bank to the industry; no loans for business. It is a depository to allow check writing that is rigorously scrutinized check by check (imagine being asked WHY you had written a check to the IRS with a memo line that clearly states tax deposit? Did they think the IRS was a front for a cartel to launder the money?)

The SAFE Banking Act will allow my clients to have a choice of banking opportunities, and hopefully ensure that healthy competition will encourage better

fee structures and offerings among the banks to the industry. Cannabis is legal in some form in nearly every state in the US. It is time to stop treating them like criminals and normalize their businesses to make it safe for them and their employees, and the communities they contribute so much to.

For legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Thank you for your time and consideration of this very important bill.

Sincerely,

Mary Allen

[Mary Allen Consulting](#)

1880 Lancaster Dr. NE Suite 120

Salem, OR 97305

Phone: (503) 991-5652

Fax: (971) 600-9042

*Certified Bookkeeping/Payroll Specialist
National Bookkeeping Association*



The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

MAY 9, 2023

Dear Senator Merkley,

I am writing on behalf of Nimble Distribution and myself in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Nimble to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Nimble Distribution. The cost to our business for not having banking has been insurmountable. I personally have had my accounts shut down simply for being employed by a cannabis company. And our company growth has been severely limited by our lack of access to traditional banking.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Joy Hudson
CEO / CO-FOUNDER NIMBLE DISTRIBUTION

Leland R. Berger, Attorney at Law
Leia Flynn, Office Manager and Legal Assistant
Oregon CannaBusiness Compliance Counsel, LLC
494 State Street, Suite 225
Salem, OR 97301
503/432-8775 (voice)

TESTIMONY IN SUPPORT OF THE SAFE BANKING ACT OF 2023

I am 67 years old, have been practicing law statewide in Oregon for over 40 years and have been a cannabis law reform advocate for the past 27 years. I am a co-author of both the Oregon Medical Marijuana Act and of our state's legalization initiative. Ten years ago I transitioned my practice from criminal defense to cannabis business licensing and compliance. Unfortunately, as Oregon is now spending more money to arrest and prosecute unlicensed cultivation than we did when it was illegal to grow at all, my practice currently includes state criminal defense and federal forfeiture cases only.

As you can see from my letterhead, my law firm (I am a sole practitioner) is Oregon CannaBusiness Compliance Counsel, LLC. When I formed it, the bank (then the Albina Community Bank in Portland, now Beneficial State Bank) balked at opening accounts for me even though I had banked there for 10 years. They sent the issue 'downtown' and gave me a paper to sign that said I did not accept payment from clients who were violating state or federal law. I crossed off 'federal' and have been banking there since.

In February of 2022, my wife took a job with a state agency. Last November we moved from Portland to Keizer and in January I moved my office from Portland to Salem. I have been denied banking, based solely on my business' name, at Willamette Valley Bank which is across the street from my office. Down the block, Wells Fargo denied me asking the second question "Do you provide goods or services to marijuana businesses?" (The first question is: Are you a marijuana business?) OnPoint Credit Union in Keizer understood that I am a criminal defense lawyer and opened accounts for me but then closed them, based again on my business' name. I went to MAPS (another Credit Union) which was the first bank to allow banking for Oregon marijuana businesses. Unfortunately, they don't handle attorney trust accounts (IOLTA - Interest on Lawyer Trust Accounts).

So, my office is in Salem, but I am forced to continue banking in Portland, nearly 50 miles away. Thank you for considering my testimony.

Lee Cell – 503/504-4298
Leia Cell – 503/933-0541

lelandberger@comcast.net
leiaflynn@gmail.com

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Members of the Senate Banking Committee,

I am writing on behalf of Rolling Cascades Farm, LLC (dba Green Bandit) in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Green Bandit to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Green Bandit because it will eliminate a significant barrier that we (and MANY other business) have had in pursuing successful cannabis business operations. On a daily basis we must navigate the financial restrictions of being a legal cannabis farm, and one major obstacle that is expensive, time consuming, and in some cases dangerous, is making cash payments.

We recently had to pay our OLCC license renewal fees in cash this year, which required driving nearly 600 miles and 10 hours round trip. We are a family owned and operated business, so instead of taking care of crucial tasks back at the farm, one of the owners had to physically drive up to the OLCC headquarters to make that payment. Among the very few cannabis business banking options we have, the current average fees for an account are \$500 PER MONTH. Some may call this the reality of capitalism, but this is just plain extortion. We have very limited options for cannabis banking, and amidst a market in Oregon that has continued to be volatile, we simply cannot afford these egregious fees.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act. On behalf of Oregon family owned and operated businesses and livelihoods, PLEASE vote to pass the SAFE Banking Act.

Sincerely,

Sarah and Brian Niestrath
Jackson County, OR

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

My name is Cody Mete.

My wife and I own and operate our small cannabis farm. We have been growing on the same property for over 10 years. We made the transition from growing for medical patients to operating in the recreational market. We have 2 young children, 5 and 2.

We desperately need affordable banking options. Currently we can't afford the banks that are available to us. We have a small farm and don't have a lot of extra money in our monthly budget.

So a little personal story from us. About 2 years ago we had saved up a substantial sum of cash to buy our very first home! We had spoken to some realtors and they pointed us toward a loan specialist. We found the house of our dreams and actually had enough for the down payment. But the loan officer said they could not accept our invoices as proof of where the cash came from. The only option he could find for us was to give the cash to a family member and have them give it back to us as a gift. Only problem is we don't have any family member we trust with that kind of money.

So now 2 years later we are still in our tiny apartment.

Another thing. We got an amazing opportunity to work with a large chain of dispensaries. One problem they can only write checks to business accounts.

Long story short! We desperately need affordable banking!

Thank you for your time!

Sincerely,

Cody Mete, Savage Skunk Pharms

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

We are an Oregon State hemp company that went to great lengths to create transparency for our company, clients and the industry by becoming the 1st USDA Certified Organic hemp extractor in the State. We were honored to be the 1st Hemp company in the USA to be recognized by the BBB for Integrity with 2021's Spark award, we were the 1st company to be asked to participate in Oregon accredited Rose City Labs certified testing program. We tell you of these accomplishments to express the level of devotion we have taken to legitimize our industry. After being removed for the class I drug category with 2018's Farm bill, we along with thousands of other hemp companies were unceremoniously dropped by our e-commerce banking company (Elavon) leaving us scrambling for months to find fair banking. Those of us still in Oregon's hemp industry are paying higher fees and unfair percentages or being denied outright. Companies like ours contribute to Oregon's economy and we continue to be high risk in the eyes of the banking community. Help our industry grow and have a chance at success in the global marketplace. This ball has been kicked down the road long enough! Please Pass The Fair Banking Act Now!

Sincerely,

Mike Stoedter

Owner/Operator

St. Helens Hemp Works

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senator Merkley,

I am writing on behalf of myself, in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Tokeativity to access the financial services we need to keep our community safe.

We are a non-touching ancillary business that supports cannabis business and consumers. The SAFE Banking Act would give businesses like mine the ability to open bank accounts without having to pretend that we don't talk to cannabis companies or consumers, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety. No more would cannabis companies have to drive hours to the state capital to pay hundreds of thousands of dollars of cash for their taxes.

This legislation is crucial for Tokeativity because although we serve 56,000 cannabis businesses and consumers, we are unable to take out a legal business loan, which would help us recover from being unable to produce events after 2 1/2 years of being shut down during the pandemic. We are a small, queer woman owned business who deeply supports cannabis's medicinal use and legal purchase, and had to let go of our staff because of decreased revenue flow.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

LISA SNYDER | Co-Founder
She / Her
TOKEATIVITY

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

Buddies is a multi-state operator and currently the top selling brand in Oregon. We employ hundreds of employees in Oregon, Washington, California, and Nevada. We are deeply affected on a regular basis from the lack of proper banking. While we do have some limited options at credit unions such as MAPS, the costs of a checking account with MAPS is exorbitant and it is highly invasive to get an account. They have to do an on-site visit/audit in order to get an account. It's Crazy. The result is that most cannabis businesses don't have a bank account because of these unfair practices and as a result we are dealt with significant amounts of cash.

Buddies operates as a third-party logistics company and we have 7 full-time drivers going around Oregon every day. They work in unnecessary fear of robbery on a daily basis. As you know, two cannabis workers were murdered in cold blood over the last two years (one in Portland and one on the south coast) – both of which were shot in the face. All over easily accessible cash because no dispensaries can accept credit cards.

Our drivers, like budtenders, handle large amounts of cash. We had an incident where one of our drivers in California was followed after leaving a dispensary. Unfortunately, the driver had a large amount of cash on him at the

time. The assailants waited for a good opportunity - when the driver went to use a restroom at a gas station. They smashed a window and rifled through the van until they found what they were looking for: Nearly \$250,000 in cash. The money was never recovered.

In a separate incident in Oregon, we were broken into just after midnight earlier in January this year. This was done by a former employee with knowledge of our internal processes, and they were able to crack out safe and take \$113,000 in cash. We were fortunately able to figure out who it was with the help of Milwaukie PD and are still waiting for the trial.

In both cases, we are still required to pay federal income tax on these robberies due to the horrendously unfair tax code that is 280E. It's hard enough to stay in business in cannabis without 280E. If we at least had safe banking, a significant amount of risk to our employees and our businesses.

To illustrate just how unfair 280E is, I would like to share a personal story. In 2017, I opened my first cannabis wholesale business. After a successful launch, we did quite well for a tiny business in 2018. Until I saw my tax bill. I took \$0 in distributions from my business, but due to my inability to deduct anything outside of cost of goods resulted in a tax liability greater than my net profits. As a result of k-1 distributions in taxes to my personal income tax, I had to pay \$60,000 in taxes for \$0 in distributions. This wrecked us and we shuttered our doors in 2019. This was devastating - I lost my business, any income opportunity, and went deep into debt to keep my family off the street. To add salt to the wound, I was unable to file for bankruptcy as there are no bankruptcy protections for individuals who own cannabis assets in the United States of America. I later settled 7 lawsuits over the next 3 years and was finally able to claw my way out of that terrible hole I found myself in.

In any case, I deeply appreciate the work Senator Merkley has put in for our industry. Thank you so much for your support of Americans in the cannabis industry. We need you more than ever.

Sincerely,

Colin Hobbs

Chief Revenue Officer

colin@buddiesbrand.com

503.530.6620

(He|Him)



May 8, 2023

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

To Whom It May Concern:

I am writing for Southern Oregon Family Farms Cooperative and the Oregon Cannabis Industry, supporting the SAFE Banking Act of 2023.

It is poignant that the opportunity to show my support has presented itself. Our farmer cooperative was denied a cannabis bank account just today because our Co-op requires an OLCC license. Previously to that, we were denied accounts at traditional institutions because we were considering taking support from licensed companies. At no point were we considering drug trafficking. Essentially, current banking laws have made it so we cannot exist. Banking requirements are a constant burden on the cannabis industry in Oregon.

Oregon farmers are disenfranchised, and consolidation is rampant. Something must give before Oregon loses its diversity within the cannabis business.

Sincerely,

Justin Botillier
Calyx CPA
221 W 10th Street
Medford, OR 97501

A handwritten signature in black ink, appearing to be "JB", written over the printed name and address.

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

As a 58-year-old business owner of several business, with a 7-year membership to CEO Group Vistage, and 15 years at CEO Group YEO, I have had extensive training in entrepreneurship.

The PAIN and weight on my shoulders with no bank for any of my businesses I was not trained for!

Although it's my business training that has allowed me to remain operational by implementing MANY BEST PRACTICES, I do not know how long I can sustain the negative cash flow.

If I had a mortgage on my home and store, rather than private money, my monthly payments would have been \$2500/month, rather than the \$8,000/month currently paid which will go up in 6 months. This loss of \$5,500/months, over the past 5 years equates to \$330,000 loss.

Due to the lack of banking and wasted cash flow:

1. I have been penalized over \$30,000 for getting kicked out of banks and paying penalties on my IRA's
2. Only 2 employees are working and I work 7 days/week so I can make payroll.
3. None of my business currently have a bank, this is a HUGE issue!
4. A business loan would allow me to float me inventory which at the moment would help greatly!

5. I feel like a sub culture human not part of society and its embarrassing

SUMMARY: A proper mortgage would have relieved all Pain and fixed 100% of my financial issues.

Sincerely,

Robert Weinger, President

541-816-4209

Cannabiz Experience, Medford OR

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Greetings,

I am writing on behalf of CannXperts, an ancillary Licensing & Compliance small business in Oregon in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like CannXperts to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like ours the ability to open bank accounts freely, access insurance and business loans, take credit cards for payment online, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for CannXperts because we have to work in a secretive way with our actual bank for fear of getting shut down. (Think about all the ways the bank is tied to daily Operations). We also have clients with large sums of money that need to pay their bills and that is also a security risk for everyone.

We actually **got fired from our old LPL Financial RETIREMENT** due to their compliance team Googling our names and seeing that we owned our *legal business*. This was a state of panic like no other because not only had we NOT given cannabis money into our retirement funds (the funds were from when we worked in Law Enforcement and Health Insurance), but there was going to be a penalty for early withdrawal if we couldn't find another place to put the retirement funds.

The same goes for our employees - trying to get qualified for home loans, or other necessary financial abilities. It would be nice not to feel like we are criminals in hiding and use our ABN freely since we pay all of our taxes, payroll taxes, and follow the rules of normal small businesses.

All of this and we don't grow or sell cannabis - we are Licensing & Compliance experts helping the legal industry stay compliant!

For small legal cannabis businesses to thrive in a challenging cannabis landscape,
we need the SAFE Banking Act.

Sincerely,
Sam Shelley, COO
CannXperts

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators Merkley and Brown.

I am writing on behalf of my company CascadeHigh Organics in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like mine to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for me, James Schwartz and my company, CascadeHigh for many reasons but I will identify two specific examples that have been particularly emblematic of the frustration with not having access to legal banking. The first example is, one of the investors in CascadeHigh who is a prominent pediatric dentist in Oregon with multiple locations and makes more than a million dollars a year personally. About 4 years ago that dentist wanted to remodel his kitchen and use a HELOC or home equity loan to remodel. His bank denied him a home equity loan because he was an investor in a cannabis company. A dentist, in the community caring for kids, who makes more than a million dollars a year couldn't get a home equity loan because he invested in a cannabis company. This prevents further investment because investors get nervous how it creates problems for their other interests.

The second example comes more on the back end, after 8 long years of losing money in the hardest industry to be a part of as a businessperson, I wanted to sell my farm and get out, but because it's a cannabis business it limits sales of the property to only people looking to buy a cannabis property with private money. This limits my access to buyers who might otherwise buy the farm simply as a residential property/hobby or specialty farm. But if there is a cannabis license on the property it can only be sold on the private market. As any wise investor knows, the cannabis industry in Oregon has its struggles with supply and that has negatively affected everything. So now even as I'm trying to get out, investors only want to pay pennies on the dollar because they know businesses are limited in who they can sell to because buyers can't get bank financing for the property. If banking weren't an issue many small businesses would be in a much better position to deal with this market and industry.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

James Schwartz Msc, BSN, LNC

CEO CascadeHigh

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Representatives.

I am writing on behalf of Cultiva Law in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Cultiva Law to access the financial services we need to keep our employees and communities safe.

The Safe Banking Act will allow businesses like the one I work for to accept payments from Clients in non-cash form and make it much safer for employees to make deposits.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Tara Griner
Paralegal Cultiva Law

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

I represent a tier 2 cannabis grow, a minority owned business in Oregon.

We need this bill passed for the long-term protection and sustainable growth of the industry.

Let me give you first hand experiences that we all face due to the lack of adequate banking access.

What I am about to tell you is not uncommon but more common than it needs to be due to the issues we face.

Since we are a cash-based business, as business operations we are constantly being taken advantage of by industry players.

I will cite a recent occurrence that has happened to our operations.

A long time 5-year trusted employee we discovered was skimming both the sales price and pocketing over 10% of the sales price to his own pocket. Since it is cash, any sales person can fudge the sales price and pocket cash. It can take a long time to discover this. Non-recoverable and most jurisdictions will not prosecute due to it being cannabis. The cash is too tempting and they know it is hard to detect and then hard to prosecute them

If we had solid banking, customers' monies can be transferred via normal payments, wire, ach or check. It would all be eliminated. In our case we think this person took in excess of a quarter of a million dollars from our operation in the last 3 years.

We pay a premium for banking services. 300 percent more than an average business to have access to standard banking that only allows us to deposit and write checks with no loans or financial help.

If we need funding for any of this, we pay a premium for the money, ridiculous fees ranging from 15 to 30% for short term funding. We are forced to pay cash or go without critical equipment that would improve our bottom line or buy substandard or used equipment.

We cannot get funding for property so we are forced to pay landlords premium rents for our facilities. Business is hard enough on all of us then you add this huge impediment, not surprising there is a huge failure rate and most of the growers turn to the black market to survive.

We need this passed for the survival and growth of this industry.

Sincerely,

Michael Busher

DeTerra LLC

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

I am writing on behalf of the Oregon cannabis industry in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Dreamfield Transfer Services to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Dreamfield because we pay \$400/month to have a checking account. Exorbitant fees like these are what makes it so hard to succeed in the recreational market and further propels the illicit market.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Nicholas Erler

Founder & CEO

971-803-7374 Ext. 201

www.dreamfieldservices.com

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

I support the SAFE Banking Act and have since I became owner Of Flowr Of Lyfe LLC dispensary in Eugene, OR in 2015. I had the pleasure of meeting Sen Merkley in 2016 and strongly support him on this matter. WE need access to banking to prevent theft and holdups yes but also to be able to get merchant services and loans as well as access to real estate locations where the landlord doesn't have to worry about his mortgage being called out. We also could run our payroll more efficiently and keep more thorough records for state regulatory agencies or the IRS. This industry has already become normalized for years so it's time to stop impeding the natural progress and protect the public. I still have to drive 2 hours just to deposit our monthly sales tax we generate on behalf of the State of Oregon. It actually ends up in a US Bank I believe so please let's address this dire situation way past the need for attention. We need our customers to be able to legally use credit cards here. When we move from this location downtown destroyed by the unaddressed homeless situation we need to be able to find someone who can rent to us without worrying they may have to pay their entire mortgage loan when the bank finds out. This is in everyone's interests including the banks, the government and the public...the definition of a no-brainer.

Sincerely,

Morgan Glenn
Owner Flowr Of Lyfe LLC

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senator Brown,

I am writing on behalf of Going Green Albany Inc. and Growing Green Farms Inc. in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Going Green Albany, Going Green Grand Ronde, Going Green Eugene, Going Green Sweet Home, and Growing Green Farms to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Going Green Albany Inc. because I have personally witnessed the risk that is incurred every day by businesses and their employees in the legal marijuana industry. This significant risk is due to marijuana businesses being forced to house and transport large amounts of cash in order to carry out business without proper access to FDIC banking. There are also many businesses that have been forced to pay their employees in cash, creating a risky situation for employees who then may have large amounts of cash on their persons prior to depositing. The lack of safe access to banking creates a huge risk of harm to marijuana businesses and their employees by way of being targeted for theft, substantial financial loss which may not be able to be recovered through insurance, and quite possible physical harm, injury or even death due to armed robbery. You just have to look at the dangers that marijuana businesses in large areas like Portland have suffered to see the many examples of risk I have listed above.

Furthermore, many employees of marijuana businesses are disenfranchised from access to personal banking due to the restrictions. Many have had their personal bank accounts closed due to association with their employment at establishments that are operating under completely legal circumstances and paying substantial state and federal taxes to do so. I have personally been denied access to money orders by a store manager who asked and was honestly answered what the money order was for, which was intended to pay our businesses payroll taxes. Not to mention access to basic home and auto loans when the banks verify employment. It is very obvious that the lack of safe banking access is placing undo risk of harm, financial loss, and limited access to the same services and protections that are afforded to every other business industry in the USA.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Patricia Dennis (Human Resources & Public Relations Manager

Going Green Albany, Inc.

Growing Green Farms, Inc.

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senator Merkley,

I am writing in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Green Goddess Remedies to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Green Goddess Remedies, in the past 10 years, I've had over 15 bank accounts. It is disruptive to business to continually have bank accounts closed. It is equally appalling to be forced to pay \$800-\$1,200 for a basic checking account with the few banks that do offer cannabis banking. This kind of added cost is difficult to sustain, in an already challenging industry.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Sally Bishop

Owner

Green Goddess Remedies

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•
•
•
•

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Tel: 503.227.6688
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e-mail: info@huserintegrated.com

HUSER INTEGRATED TECHNOLOGIES

May 9, 2023

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

I am writing on behalf of common sense in support of the SAFE Banking Act of 2023. As you are aware, the SAFE Banking Act would allow legal businesses to access the financial services they need to keep their employees and our communities safe.



I come to this not as a grower, purveyor, processor, or investor but as a Security Professional with clients in the Cannabis Industry as well as multiple other Industries that run the gamut of Health Care, Retail, High Tech, Heavy Industry, Education, etc., and none of them face the financial and Banking challenges that those involved in the Cannabis Industry face. It is simply not safe to operate in a cash only environment nor is it equitable for a legal business to face these obstacles.

The SAFE Banking Act would give these legal businesses the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety. As a by-product of the current system our staff is put at risk when we accept large cash payments and must transport them for deposit.

Finally, the Cannabis industry employs thousands of people, and the majority of our clients are small businesses that simply wish to operate under the same financial system enjoyed by every other business including our own. For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Thank you for your time and consideration.

W.C. Nichols

Huser Integrated Technologies

The Honorable Jeff Merkley

U.S. Senate

Washington, D.C. 20510

The Honorable Sherrod Brown

U.S. Senate

Washington, D.C. 20510

First off, my wife, brother, and myself started Kaleafa in 2014 with 150K and a dream to become the best in class Cannabis Dispensary in Oregon. We currently sit between the 3-5th largest dispensary, by revenue, in the State with 8 Oregon locations, another 3 managed Washington Locations, and 160 employees. I believe we are the only MSO in both Oregon and Washington since my brother lives in Kirkland and I reside in Oregon City.

I cannot begin to explain the challenges we have faced without Fair and Safe Banking. We struggle each month under the weight of high interest payments, short term payoffs, no lines of credit, and an unyielding 280E, and an overtaxed industry the government fails to recognize legally. Moreover, the industry lacks traditional safeguards with insurance companies, payroll companies, inventory management software, etc. Everything we do has come hurdle and yet we pay exorbitant amounts of money to barely stay above water. Not to mention bank loans for anyone in the industry (my entire family was thrown out of Wells Fargo after 20 plus years and we did not run a single cent of the business through the accounts, just our family funds) has created hardships for many associated with Cannabis.

We currently have a 8mm loan with a 3 year amortization at 16.5%. Everything we have is liened and backed by personal guarantees. I live under the constant stress of keeping above water and I have started to wonder "if the long game is worth it". I left a job selling Orthopedics Implants after 13 years to own my own business, and could have been set to retire by 62 if I had not gone down this path. Now I spent my days wondering how to protect my assets if everything goes

south as the current Note is barely affordable to. Worst part is, we took this loan when the market was red hot with Covid and now we have seen a 30% plus drop in market re-alignment so the prior decision to take the loan was sound, but based on false market numbers.

I can go on and on so let me know what additional you might need and I can get down to Salem or DC if it helps the cause. I have a marketing degree from PSU so speaking articulately to the issues will not be a problem.

Thanks

John Widmer

Kaleafa Cannabis (and a royalty partner to Whiz Kaleafa so our brand has some notoriety)

President of Procurement and Inventory

503-869-6240

HAYER & ASSOCIATES

ATTORNEYS AT LAW

210 SW Morrison St.
Suite 500
Portland, Oregon 97204

Kohel Haver
Direct Line (503) 295-2787
kohelhaver@gmail.com

May 9, 2023

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators Merkley and Brown

I am writing on behalf of my friends and clients in the cannabis business in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses to access the financial services we need to keep their employees and communities safe.

The SAFE Banking Act would give businesses the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety. I remember a few years ago Senator Merkley rode with a business owner with a backpack full of thousands of dollars in cash driving it in person to pay the state tax assessment. This is a trip regularly made by everyone in the business.

This legislation is crucial because under the current system these businesses can only deal with cash, making them vulnerable to theft, loss, robbery, and a string of crimes where law enforcement is overwhelmed by cases, reported or many unreported. One business owner of a retail operation told me they deal with a theft of thousands of dollars every week. Law enforcement does not have the resources to pursue every case. This could be solved in part by passing Safe Banking.

Another client and friend was unable to open a bank account because the business was involved in providing legal counsel to cannabis businesses and individuals. When law offices are involved in defending individuals accused of various violent crimes, they have no trouble opening a bank account, getting a loan to finance their business expenses, but in these cases providing advice and counsel regarding the legal and appropriate manner to operate a business complaint with the state law was a bar to opening an account. It's both absurd and unfair. As more states recognize the legitimacy of these businesses, we need a consistent law and a national SAFE BANKING POLICY

Thank you for your work. .



The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

As an owner of a small business in the state of Oregon not being able to utilize normal banking as any other business can is UNSAFE, UNFAIR, and plain out UNAMERICAN.

As a cannabis business we are forced to carry large sums of cash which is very dangerous. To even have a bank account first you have to get on a wait list and there are only two credit unions I know of in the entire state of Oregon that will even accept our cash and allow us to have any banking option. The closest branch is nearly a 40 minute commute from my business in Portland, Oregon. Carrying large sums of cash is dangerous and takes a nice chunk out of the work day just to deposit money. It also costs \$400 per month (down from \$500 per month that it used to cost) just to be able to have a bank account. There are no normal loans offered to cannabis business's from the bank and only available from private lenders that charge an extremely high interest rate if you can even secure one. As an owner I have personally had my normal Bank account closed down, multiple credit cards including my Amazon card, Southwest Airline, and United Card all closed down at once with no explanation other than my profession. I have had home loans pulled from me at the last minute when the bank discovers my profession and the \$400 a month credit union will not even offer a home loan to cannabis customers. Even after having pre approval letters from national banks, good credit and an acceptable debt/income ratio I have been denied home mortgages.

We pay taxes, offer good paying jobs and contribute to our local economy and are simply asking to be treated like any normal business...because we are.

I would ask Congress to please consider the normal hard working Americans that make up the Cannabis industry and please begin to treat us equally and allow us to be safe at work and pursue the American Dream by allowing banks to work with us to secure business and home loans jsut like every other American.

Sincerely,

Jon, Kola Brand

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

The need for banking services to any small or large business is fairly obvious. Without access to banking services purchasing of raw materials and selling of goods becomes more cumbersome and time consuming and for large capital purchases practically impossible. It is also becoming more expensive and creates security risks to move large amounts of cash.

It is not only direct cannabis businesses that are affected. We had an agricultural supply shop for 12 years and had a long-standing relationship with Bank of America. We had a \$60k line of credit to buy goods with. Two years ago, we received a letter that informed us that our accounts were being closed and would be frozen within 10 days. When we inquired as to why we were told that our signing documents contained a clause that they could close our accounts at any time without cause or reason. After pressing the bank manager, he confided that it was probably due to a suspicion that our business had a large amount of cannabis related customers. This was the first of several factors that led to our closing the business.

Our licensed cannabis farm has been financed with our retirement accounts. It was not economical to take the loan shark rate loans that were available. (>20%) We are now in a position where we are leveraged so much we can't afford to fail. Prices for our products are down 60% from 7 years ago. New testing requirements are adding costs and forcing us to alter growing practices on the fly to meet new

standards without any phase-in period. We need to grow to get to the economies of scale, but we are trapped without access to reasonably priced loans.

We were able to secure a MAPPs Credit union account after 4 years of being in business, but this only offers us a debit account and costs us \$500/month. It is also inconvenient as we need to travel 1 hour to get to a branch to make either cash deposits or withdrawals. We are afraid to make any direct bank to bank transfers for fear that our other bank may determine that our Mapp's account is a cannabis related business and freeze our personal accounts.

The lack of banking increases the costs of any other services or products quoted to us such as insurance, cleaning, maintenance, security and on and on. Other businesses raise their prices for like and similar products and services when they know we are a cannabis business.

We would only ask that we be treated like any other industry and maybe take some of the power away from the banks like unilateral closing of accounts.

Michael Kirschnick, Love Life Farms

Lovelifefarms@gmail.com



The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

May 9, 2023

Dear Senators Merkley and Brown,

I am writing on behalf of Maps Credit Union ("Maps") in Salem, Oregon where I serve as Chief Operations Officer and as the executive responsible for overseeing our cannabis banking program. We have been serving Oregon's cannabis industry since 2014. I testified in favor of the SAFE Banking Act before the House Subcommittee on Consumer Protection and Financial Services in February 2019 and the Senate Committee on Banking, Housing, and Urban Affairs in July 2019 on behalf of the Credit Union National Association (CUNA).

Today, Maps still faithfully serves Oregon's legal cannabis industry, and we provide deposit products and services to over 500 Oregon businesses. We have collected over \$2.6 billion dollars in cash deposits from cannabis businesses since our tracking began in 2016. We've seen this industry through many ups and downs and have shared its immense frustration with the lack of access to traditional and safe payment methods, such as credit and debit cards, in its stores. In fact, Maps offered online bill payment to the cannabis industry up until last summer when our service provider forced us to cut off access to any cannabis business due to a mandate from the provider's supporting bank. This meant our cannabis business members no longer had access to this safe and cashless payment method within online banking.

Nearly ten years after FinCEN's *BSA Expectations Regarding Marijuana-Related Businesses* ("FinCEN Guidance") was issued, the time is long overdue for state sanctioned cannabis businesses to have access to the mainstream economy. In complying with the FinCEN Guidance, Maps has filed tens of thousands of Currency Transaction Reports and thousands of Suspicious Activity Reports since 2014—providing vital information to law enforcement that would otherwise be unavailable.



Maps Credit Union • P.O. Box 12398 • Salem, Oregon 97309
P 503.588.0181 • 800.688.0181 F 503.588.0665 W maps.cu.com



We have chosen to serve the legal cannabis industry because it is the right thing to do for the safety of our community, but it is undeniable that we operate in peril of criminal prosecution for facilitating the financial transactions of a federally illegal industry. While Maps takes no position on the legalization of cannabis, we strongly believe that legal businesses in our state deserve access to the financial system. Frankly, it is common sense.

Maps Credit Union proudly supports the SAFE Banking Act of 2023, and I am happy to answer any questions you may have.

Sincerely,

Rachel M. Pross
Chief Operations Officer
Maps Credit Union

The Honorable Jeff Merkley

U.S. Senate

Washington, D.C. 20510

The Honorable Sherrod Brown

U.S. Senate

Washington, D.C. 20510

Dear Senators,

I am writing on behalf of multiple clients in the cannabis industry in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like my clients to access the financial services they need to keep their employees and communities safe.

The SAFE Banking Act would give businesses like my client's the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for those in cannabis business. One of my clients has had their stores robbed multiple times, more than once by gunpoint, because it is known that cannabis dispensaries are nearly all cash. There has been an instance of an employee being murdered during a robbery of a dispensary on the Oregon coast. Employees do not feel safe, which leads to a higher than average turnover rate, which leads to increased costs in an industry that is already so heavily taxed that most are struggling to stay afloat.

When you consider the logistical challenges of being an all cash business, it seems nearly insurmountable. Unlike banked businesses, the cannabis business owner faces unique challenges in everyday situations as simple as paying utility bills, or payroll.

- Instead of logging online and paying a utility bill, these folks have to either drive to a paycenter and pay in cash, or buy money orders to fill out and send. If they need too many money orders (due to limits on how many can

be purchased at one time) they may have to make multiple trips to various money centers like Walmart or Walgreens.

- To pay their employees, they have to fill paychecks with cash, and take extra steps to ensure they have proven that the employee has been paid (no cashed checks for proof)
- To pay their Federal payroll tax, they must go to the Federal building, where they are allowed to only bring a certain amount of cash in per appointment (and appointments can be limited to one a month, so many of my clients remain behind on their tax due to this policy). Even if they are able to pay in full during their one monthly appointment, they will still be penalized as this is considered by the IRS as an "improper payment" as all tax payments are supposed to be made through EFTPS, which requires the client to have a bank account.
- To pay their marijuana taxes and state payroll taxes, they must drive to DOR in Salem, toting sometimes hundreds of thousands of dollars in cash, each month. Some owners are driving in from Eastern or Southern Oregon. Consider the absolute peril these folks are in as they drive across our state with hundreds of thousands of dollars in cash in their vehicle! Would any of you want to do that? Would you feel safe?
- Their own personal accounts are constantly shut down, due to making cash deposits of their own paychecks..
- The employees are also targeted on bank accounts; I'm aware of several instances where employees had their accounts closed down because of making cash deposits for their paychecks.
- There is a bank in Oregon that allows banking, at a current fee of \$400 per month per account. It is a rigorous and time consuming process to be allowed to open an account with them, and they basically treat the customer like a criminal. They no longer allow the customer to be present when their cash deposit is counted; instead it is to be dropped off and will be credited to the account after 2 days (how many of you would be comfortable leaving large cash deposits to be counted out of your eyesight and only credited to your account after 48 hours?) There are NO SERVICES offered by this bank to the industry; no loans for business. It is a depository to allow check writing that is rigorously scrutinized check by check (imagine being asked WHY you had written a check to the IRS with a memo line that clearly states tax deposit? Did they think the IRS was a front for a cartel to launder the money?)

The SAFE Banking Act will allow my clients to have a choice of banking opportunities, and hopefully ensure that healthy competition will encourage better

fee structures and offerings among the banks to the industry. Cannabis is legal in some form in nearly every state in the US. It is time to stop treating them like criminals and normalize their businesses to make it safe for them and their employees, and the communities they contribute so much to.

For legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Thank you for your time and consideration of this very important bill.

Sincerely,

Mary Allen

[Mary Allen Consulting](#)

1880 Lancaster Dr. NE Suite 120

Salem, OR 97305

Phone: (503) 991-5652

Fax: (971) 600-9042

Certified Bookkeeping/Payroll Specialist

National Bookkeeping Association



The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

MAY 9, 2023

Dear Senator Merkley,

I am writing on behalf of Nimble Distribution and myself in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Nimble to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Nimble Distribution. The cost to our business for not having banking has been insurmountable. I personally have had my accounts shut down simply for being employed by a cannabis company. And our company growth has been severely limited by our lack of access to traditional banking.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

Joy Hudson
CEO / CO-FOUNDER NIMBLE DISTRIBUTION

Leland R. Berger, Attorney at Law
Leia Flynn, Office Manager and Legal Assistant
Oregon CannaBusiness Compliance Counsel, LLC
494 State Street, Suite 225
Salem, OR 97301
503/432-8775 (voice)

TESTIMONY IN SUPPORT OF THE SAFE BANKING ACT OF 2023

I am 67 years old, have been practicing law statewide in Oregon for over 40 years and have been a cannabis law reform advocate for the past 27 years. I am a co-author of both the Oregon Medical Marijuana Act and of our state's legalization initiative. Ten years ago I transitioned my practice from criminal defense to cannabis business licensing and compliance. Unfortunately, as Oregon is now spending more money to arrest and prosecute unlicensed cultivation than we did when it was illegal to grow at all, my practice currently includes state criminal defense and federal forfeiture cases only.

As you can see from my letterhead, my law firm (I am a sole practitioner) is Oregon CannaBusiness Compliance Counsel, LLC. When I formed it, the bank (then the Albina Community Bank in Portland, now Beneficial State Bank) balked at opening accounts for me even though I had banked there for 10 years. They sent the issue 'downtown' and gave me a paper to sign that said I did not accept payment from clients who were violating state or federal law. I crossed off 'federal' and have been banking there since.

In February of 2022, my wife took a job with a state agency. Last November we moved from Portland to Keizer and in January I moved my office from Portland to Salem. I have been denied banking, based solely on my business' name, at Willamette Valley Bank which is across the street from my office. Down the block, Wells Fargo denied me asking the second question "Do you provide goods or services to marijuana businesses?" (The first question is: Are you a marijuana business?) OnPoint Credit Union in Keizer understood that I am a criminal defense lawyer and opened accounts for me but then closed them, based again on my business' name. I went to MAPS (another Credit Union) which was the first bank to allow banking for Oregon marijuana businesses. Unfortunately, they don't handle attorney trust accounts (IOLTA - Interest on Lawyer Trust Accounts).

So, my office is in Salem, but I am forced to continue banking in Portland, nearly 50 miles away. Thank you for considering my testimony.

Lee Cell – 503/504-4298
Leia Cell – 503/933-0541

lelandberger@comcast.net
leiaflynn@gmail.com

The Honorable Jeff Merkley

U.S. Senate

Washington, D.C. 20510

The Honorable Sherrod Brown

U.S. Senate

Washington, D.C. 20510

Dear Members of the Senate Banking Committee,

I am writing on behalf of Rolling Cascades Farm, LLC (dba Green Bandit) in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Green Bandit to access the financial services we need to keep our employees and communities safe.

The SAFE Banking Act would give businesses like mine the ability to open bank accounts, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety.

This legislation is crucial for Green Bandit because it will eliminate a significant barrier that we (and MANY other business) have had in pursuing successful cannabis business operations. On a daily basis we must navigate the financial restrictions of being a legal cannabis farm, and one major obstacle that is expensive, time consuming, and in some cases dangerous, is making cash payments.

We recently had to pay our OLCC license renewal fees in cash this year, which required driving nearly 600 miles and 10 hours round trip. We are a family owned and operated business, so instead of taking care of crucial tasks back at the farm, one of the owners had to physically drive up to the OLCC headquarters to make that payment. Among the very few cannabis business banking options we have, the current average fees for an account are \$500 PER MONTH. Some may call this the reality of capitalism, but this is just plain extortion. We have very limited options for cannabis banking, and amidst a market in Oregon that has continued to be volatile, we simply cannot afford these egregious fees.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act. On behalf of Oregon family owned and operated businesses and livelihoods, PLEASE vote to pass the SAFE Banking Act.

Sincerely,

Sarah and Brian Niestrath

Jackson County, OR

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

My name is Cody Mete.

My wife and I own and operate our small cannabis farm. We have been growing on the same property for over 10 years. We made the transition from growing for medical patients to operating in the recreational market. We have 2 young children, 5 and 2.

We desperately need affordable banking options. Currently we can't afford the banks that are available to us. We have a small farm and don't have a lot of extra money in our monthly budget.

So a little personal story from us. About 2 years ago we had saved up a substantial sum of cash to buy our very first home! We had spoken to some realtors and they pointed us toward a loan specialist. We found the house of our dreams and actually had enough for the down payment. But the loan officer said they could not accept our invoices as proof of where the cash came from. The only option he could find for us was to give the cash to a family member and have them give it back to us as a gift. Only problem is we don't have any family member we trust with that kind of money.

So now 2 years later we are still in our tiny apartment.

Another thing. We got an amazing opportunity to work with a large chain of dispensaries. One problem they can only write checks to business accounts.

Long story short! We desperately need affordable banking!

Thank you for your time!

Sincerely,

Cody Mete, Savage Skunk Pharms

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senators,

We are an Oregon State hemp company that went to great lengths to create transparency for our company, clients and the industry by becoming the 1st USDA Certified Organic hemp extractor in the State. We were honored to be the 1st Hemp company in the USA to be recognized by the BBB for Integrity with 2021's Spark award, we were the 1st company to be asked to participate in Oregon accredited Rose City Labs certified testing program. We tell you of these accomplishments to express the level of devotion we have taken to legitimize our industry. After being removed for the class I drug category with 2018's Farm bill, we along with thousands of other hemp companies were unceremoniously dropped by our e-commerce banking company (Elavon) leaving us scrambling for months to find fair banking. Those of us still in Oregon's hemp industry are paying higher fees and unfair percentages or being denied outright. Companies like ours contribute to Oregon's economy and we continue to be high risk in the eyes of the banking community. Help our industry grow and have a chance at success in the global marketplace. This ball has been kicked down the road long enough! Please Pass The Fair Banking Act Now!

Sincerely,

Mike Stoedter

Owner/Operator

St. Helens Hemp Works

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

Dear Senator Merkley,

I am writing on behalf of myself, in support of the SAFE Banking Act of 2023. The SAFE Banking Act would allow legal businesses like Tokeativity to access the financial services we need to keep our community safe.

We are a non-touching ancillary business that supports cannabis business and consumers. The SAFE Banking Act would give businesses like mine the ability to open bank accounts without having to pretend that we don't talk to cannabis companies or consumers, access insurance and business loans, take credit cards for payment, and use the financial system like any other legal business, all while improving public safety. No more would cannabis companies have to drive hours to the state capital to pay hundreds of thousands of dollars of cash for their taxes.

This legislation is crucial for Tokeativity because although we serve 56,000 cannabis businesses and consumers, we are unable to take out a legal business loan, which would help us recover from being unable to produce events after 2 1/2 years of being shut down during the pandemic. We are a small, queer woman owned business who deeply supports cannabis's medicinal use and legal purchase, and had to let go of our staff because of decreased revenue flow.

For small legal cannabis businesses to thrive in a challenging cannabis landscape, we need the SAFE Banking Act.

Sincerely,

LISA SNYDER | Co-Founder
She / Her
TOKEATIVITY



1620 L Street NW, Suite 1020
Washington, DC 20036

202.828.2635
electran.org

May 1, 2023

The Honorable Dave Joyce
House of Representatives
Washington, DC 20515

The Honorable Steve Daines
U.S. Senate
Washington, DC 20510

The Honorable Earl Blumenauer
House of Representatives
Washington, DC 20515

The Honorable Jeff Merkley
U.S. Senate
Washington, DC 20510

Dear Representatives Joyce and Blumenauer and Senators Daines and Merkley:

On behalf of the members of the Electronic Transactions Association (ETA), I am writing in support of the bipartisan Secure and Fair Enforcement Banking Act of 2021 (SAFE Banking Act). We appreciate your leadership on addressing the conflict between federal and state laws to allow states that have legalized medical or recreational use of cannabis to bring that commerce into the banking system.

ETA is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S and in more than a dozen countries around the world. ETA members make commerce possible by processing approximately \$44 trillion annually in purchases worldwide and deploying payments innovation to merchants and consumers.

Forty-seven states, four U.S. territories, and the District of Columbia have legalized some form of recreational or medical cannabis, including CBD. Yet current law restricts legitimate licensed cannabis businesses from accessing financial industry services and products, resulting in businesses operating in all cash — posing a serious public safety risk for communities.

The conflict between state and federal laws forces businesses to operate on a cash-only basis and has created significant legal and compliance concerns for financial institutions that wish to provide banking services to cannabis related businesses in states where it is currently legal. The SAFE Banking Act would allow legitimate cannabis businesses to access the safety and security of the banking ecosystem in states that have legalized cannabis. Having access to the banking system is an important step toward enabling financial services for cannabis-related businesses and makes it easier for businesses to track revenues for taxation purposes, decreases a public safety threat as cash intensive businesses are often targets for criminal activity, and allows proper tracking of finances for BSA/AML compliance.

ETA takes no position on the legalization or decriminalizing cannabis at the state or federal level for medicinal or recreational uses. However, ETA does support legislation that would resolve the conflict between state and federal laws to allow financial institutions to serve cannabis related businesses in states where these businesses are legal under state law.





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Washington, DC 20036

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electran.org

ETA is pleased to support the SAFE Banking and urges Congress to quickly consider this important issue. If you have any questions, please contact me or ETA's Executive Vice President, Scott Talbott at stalbott@electran.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Patchen', is written over a white rectangular background.

Jeff Patchen
Director of Government Affairs
Electronic Transactions Association





Derek B. Williams, *Chairman*
Lucas White, *Chairman-Elect*
Jack E. Hopkins, *Vice Chairman*
Sarah Getzlaff, *Treasurer*
James H. Sills, III, *Secretary*
Brad M. Bolton, *Immediate Past Chairman*
Rebeca Romero Rainey, *President and CEO*

April 28, 2023

The Honorable Jeff Merkley
U.S. Senate
Washington, D.C. 20510

The Honorable Steve Daines
U.S. Senate
Washington, D.C. 20510

Dear Senator Merkley and Senator Daines:

On behalf of the Independent Community Bankers of America (ICBA) and the nearly 50,000 locations we represent, I write to express our strong support for the SAFE Banking Act (S. 1323). Your legislation would resolve a conflict between state and federal law and address a critical public safety concern. We are pleased that it enjoys strong, bipartisan support.

S. 1323 would create a safe harbor from federal sanctions for financial institutions that serve cannabis-related businesses (CRBs), as well as their numerous service providers, in states and other jurisdictions where cannabis is legal. [ICBA polling](#) conducted by Morning Consult found that two-thirds of voters support cannabis banking access.

S. 1323 is essential for the ongoing ability of community banks to effectively serve their communities. It would also alleviate the significant threat to public safety posed by cash intensive CRBs effectively being shut out of the banking industry. According to the same poll referenced above, 71 percent of voters agree that allowing cannabis-related businesses to access the banking system would help reduce the risk of robbery and assault at CRBs — showing the importance of the policy to public safety.

Thank you again for introducing this important legislation. We look forward to working with you to advance it into law.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

The Nation's Voice for Community Banks.®

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Suite 900 P.O. Box 267 866-843-4222
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INTERNATIONAL BROTHERHOOD OF TEAMSTERS

SEAN M. O'BRIEN
General President

25 Louisiana Avenue, NW
Washington, DC 20001



FRED E. ZUCKERMAN
General Secretary-Treasurer

202-624-6800
www.teamster.org

May 10, 2023

VIA Electronic Transmission

United States Senate
Washington, D.C. 20510

Senator Sherrod Brown – Chairman
Senate Committee on Banking,
Housing and Urban Affairs

Senator Tim Scott – Ranking Member
Senate Committee on Banking
Housing and Urban Affairs

Dear Chairman Brown and Ranking Member Scott,

On behalf of the 1.2 million members of the International Brotherhood of Teamsters, I would like to submit a statement for the record in support of S. 1323, the Secure and Fair Enforcement (SAFE) Banking Act. The Teamsters represent thousands of cannabis workers in retail and transportation. This legislation would drastically improve workplace safety conditions by allowing banks and other financial institutions to provide services to legitimate cannabis-related businesses.

When businesses can't operate normally by accessing the traditional financial infrastructure of this country, it poses a risk not just to the business but to their employees. Cannabis workers, many of whom are Teamster members, must operate in an all-cash environment which puts them and their customers at risk to violent theft and robbery. Workers themselves often find it difficult to secure mortgages or access to basic banking, like a checking account because financial institutions are overly and unfairly cautious about the source of their income.

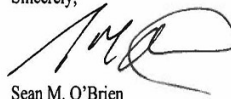
There are thousands working in the cultivation, distribution, and sale of cannabis for both personal and recreational use in 38 states. These workers deserve a safe workplace that provides meaningful wages, healthcare, and access to retirement security. Unfortunately, many of these workers cannot engage in a meaningful partnership with their employer, in part because of how the cannabis industry is forced to operate in the financial dark.

Teamster members at three Chicago, IL dispensaries for example were forced to walk off the job twice, earlier this year. The employer, Green Thumb Industries engaged in multiple Unfair Labor Practice (ULP) violations, and workers were forced to go on strike. As Congress works to establish the necessary guardrails around cannabis legalization, the labor and safety interests of workers in this industry must be considered paramount. Passing SAFE Banking is a necessary part of this process and will improve worker safety conditions while also easing operational burdens for employers at the same time.

Unites State Senate
May 10th, 2023
Page 2 of 2

The Teamsters are committed to helping the cannabis industry grow through the passage of the SAFE Banking Act, which will make sure these companies prioritize the care and safety of their workers. I thank you for the opportunity to submit this formal statement for this hearing: *Examining Cannabis Banking Challenges of Small Businesses and Workers.*

Sincerely,



Sean M. O'Brien
General President
International Brotherhood of Teamsters

SMO/bt



May 9, 2023

Dear Senators Merkley and Daines and Representatives Joyce and Blumenauer:

We, the undersigned U.S. trade associations, write to express support for the SAFE Banking Act of 2023. Collectively, we represent a majority of the companies, agents, and brokers offering property-casualty, life, title, and reinsurance (collectively, “insurers”) in the U.S. We appreciate your leadership in seeking needed clarity for insurance transactions related to marijuana businesses that are otherwise permissible under state law.

The insurance industry is potentially exposed to liability arising from the differences of the legal treatment of marijuana and marijuana products under federal and state law and regulation at the state level. However, with the inclusion of key language from the Clarifying Law Around Insurance of Marijuana Act, sponsored by Senators Menendez, Paul, Tester, Daines, and Merkley and Representatives Velázquez and Davidson, the SAFE Banking Act’s safe harbor provisions would prevent federal criminal prosecution of and civil liability for agents, brokers, and insurers, their officers, directors or employees when engaging in the business of insurance in states that have legalized marijuana in some form.

By resolving the legal uncertainty presented by the dueling state and federal treatment of marijuana, the insurance industry can serve both State-sanctioned marijuana businesses and other commercial and personal lines consumers who may have a direct or indirect relationship to State-legalized marijuana, and still be in compliance with the law. Insurers must also continue to satisfy all applicable state statutory or regulatory requirements, such as those pertaining to consumer protections and claims payments.

We greatly appreciate your leadership, and we look forward to continuing to work with you and Congress to ensure our industry is not caught between conflicting obligations under federal and state law.

Sincerely,

American Land Title Association (ALTA)
 American Council of Life Insurers (ACLI)
 American Property Casualty Insurance Association (APCIA)
 The Council of Insurance Agents & Brokers (CIAB)
 Independent Insurance Agents & Brokers of America (IIABA)
 National Association of Mutual Insurance Companies (NAMIC)
 National Association of Professional Insurance Agents (PIA)
 Reinsurance Association of America (RAA)
 Wholesale & Specialty Insurance Association (WSIA)



Kirsten Sutton
Executive Vice President
Congressional Relations & Legislative Affairs
P: 202-663-5356
ksutton@aba.com

May 3, 2023

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Hakeem Jeffries
House Minority Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and Urban
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Speaker McCarthy, Majority Leader Schumer, Minority Leaders McConnell and Jeffries,
Chairmen Brown and McHenry, and Ranking Members Scott and Waters:

On behalf of the American Bankers Association (ABA), I am writing to express our strong support for H.R. 2891 /S. 1323, the Secure and Fair Enforcement Banking Act (SAFE Banking Act) of 2023 sponsored by Senators Jeff Merkley (D-OR) and Steve Daines (R-MT) and Representatives Dave Joyce (R-OH-14) and Earl Blumenauer (D-OR-03). This important legislation would help bring certainty to an important issue that has become a challenge for so many of our nation's communities and the banks that serve them.

The SAFE Banking Act is an urgently needed, and widely supported, bipartisan solution that will allow banks to handle not only the proceeds from both state-licensed cannabis businesses and the ancillary businesses—accountants, skilled trades, landlords, law firms, and other service providers—those businesses rely upon to operate, but also accept deposits from and make loans to employees of those businesses. Federal law currently prevents banks from banking cannabis businesses and these ancillary businesses, without fear of federal sanctions. As a result, this industry is operating primarily in cash, which is not only a public safety risk, but also undermines the ability for regulators, tax collectors, and law enforcement to monitor the industry effectively.

Financial institutions must adhere to stringent anti-money laundering and counter-terrorist financing reporting requirements, so bringing this industry into the regulated banking system will provide much-needed visibility into its financial activity. Processing transactions through bank accounts instead of in cash would ensure that regulators and law enforcement have the necessary tools to identify bad actors and also enhance tax collection and financial transparency in the thirty-seven states where cannabis is now legal at the state level.

While ABA does not take a position on the legalization of cannabis, our member banks find themselves in conflict between state and federal law, with local communities encouraging them to bank cannabis businesses and federal law prohibiting it.

The Controlled Substances Act (21 U.S.C. §801 et seq.) classifies cannabis as an illegal drug and prohibits its use for any purpose. For banks, that means that all proceeds generated by a cannabis-related or ancillary business, even when operating in compliance with state law, are unlawful under federal law, and so any attempt to conduct a financial transaction with that money (including simply accepting a deposit) can be considered money-laundering. Thus, banking cannabis businesses, or any of the non-cannabis focused vendors or businesses that serve them, places banks in the untenable position of dealing with these state-authorized businesses at significant risk of regulatory sanction, loss of access to the payments system or even the potential loss of the bank charter itself.

Currently, the only directive available to financial institutions in connection with cannabis-related accounts comes from guidance issued by the Financial Crimes Enforcement Network (FinCEN) in 2014. That guidance, which references a now-rescinded memorandum from the U.S. Department of Justice (the "Cole Memo"), describes how financial institutions can report cannabis-related business activity consistent with their anti-money laundering obligations. However, it merely creates a system for reporting activity that is illegal under federal law but otherwise legal under state law and does not create a safe harbor or otherwise modify federal law to protect banks from criminal and civil liability for providing financial services to state-sanctioned cannabis businesses.

The bipartisan, bicameral, SAFE Banking Act would provide that legal and regulatory clarity for banks and help facilitate access to financial services for state-sanctioned cannabis businesses while strengthening the ability of financial institutions and law enforcement to detect unlawful activity.

The bill specifies that proceeds from a state-sanctioned cannabis business would not be considered unlawful under federal money laundering statutes or any other federal law, which is necessary to allow the provision of financial services to state-sanctioned cannabis businesses as well as any ancillary businesses that derive some portion of their income from those businesses. The bill would also direct FinCEN, and the federal banking regulators through the Federal

Financial Institutions Examination Council, to issue guidance and exam procedures for banks doing business with state-sanctioned cannabis businesses. Explicit, consistent direction from federal financial regulators will provide needed clarity for banks and help them better evaluate the risks and supervisory expectations for cannabis-related customers.

This legislation has garnered strong bipartisan support in both the House and Senate, and ABA urges all Members of Congress to please join in cosponsoring the SAFE Banking Act. ABA also requests swift consideration of these bills in both the Senate Banking and House Financial Services Committees, through regular order, and further advocates for swift passage by Congress.

Sincerely,

A handwritten signature in black ink that reads "Kristin Sutton". The signature is written in a cursive, flowing style.

cc: Members of the U.S. Senate
Members of the U.S. House of Representatives



1620 L Street NW, Suite 1020
Washington, DC 20036

202.828.2635
electran.org

May 1, 2023

The Honorable Dave Joyce
House of Representatives
Washington, DC 20515

The Honorable Steve Daines
U.S. Senate
Washington, DC 20510

The Honorable Earl Blumenauer
House of Representatives
Washington, DC 20515

The Honorable Jeff Merkley
U.S. Senate
Washington, DC 20510

Dear Representatives Joyce and Blumenauer and Senators Daines and Merkley:

On behalf of the members of the Electronic Transactions Association (ETA), I am writing in support of the bipartisan Secure and Fair Enforcement Banking Act of 2021 (SAFE Banking Act). We appreciate your leadership on addressing the conflict between federal and state laws to allow states that have legalized medical or recreational use of cannabis to bring that commerce into the banking system.

ETA is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S and in more than a dozen countries around the world. ETA members make commerce possible by processing approximately \$44 trillion annually in purchases worldwide and deploying payments innovation to merchants and consumers.

Forty-seven states, four U.S. territories, and the District of Columbia have legalized some form of recreational or medical cannabis, including CBD. Yet current law restricts legitimate licensed cannabis businesses from accessing financial industry services and products, resulting in businesses operating in all cash — posing a serious public safety risk for communities.

The conflict between state and federal laws forces businesses to operate on a cash-only basis and has created significant legal and compliance concerns for financial institutions that wish to provide banking services to cannabis related businesses in states where it is currently legal. The SAFE Banking Act would allow legitimate cannabis businesses to access the safety and security of the banking ecosystem in states that have legalized cannabis. Having access to the banking system is an important step toward enabling financial services for cannabis-related businesses and makes it easier for businesses to track revenues for taxation purposes, decreases a public safety threat as cash intensive businesses are often targets for criminal activity, and allows proper tracking of finances for BSA/AML compliance.

ETA takes no position on the legalization or decriminalizing cannabis at the state or federal level for medicinal or recreational uses. However, ETA does support legislation that would resolve the conflict between state and federal laws to allow financial institutions to serve cannabis related businesses in states where these businesses are legal under state law.





1620 L Street NW, Suite 1020
Washington, DC 20036

202.828.2635
electran.org

ETA is pleased to support the SAFE Banking and urges Congress to quickly consider this important issue. If you have any questions, please contact me or ETA's Executive Vice President, Scott Talbott at stalbott@electran.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Patchen', is positioned above the typed name.

Jeff Patchen
Director of Government Affairs
Electronic Transactions Association





Derek B. Williams, *Chairman*
 Lucas White, *Chairman-Elect*
 Jack E. Hopkins, *Vice Chairman*
 Sarah Getzlaff, *Treasurer*
 James H. Sills, III, *Secretary*
 Brad M. Bolton, *Immediate Past Chairman*
 Rebeca Romero Rainey, *President and CEO*

April 28, 2023

The Honorable Jeff Merkley
 U.S. Senate
 Washington, D.C. 20510

The Honorable Steve Daines
 U.S. Senate
 Washington, D.C. 20510

Dear Senator Merkley and Senator Daines:

On behalf of the Independent Community Bankers of America (ICBA) and the nearly 50,000 locations we represent, I write to express our strong support for the SAFE Banking Act (S. 1323). Your legislation would resolve a conflict between state and federal law and address a critical public safety concern. We are pleased that it enjoys strong, bipartisan support.

S. 1323 would create a safe harbor from federal sanctions for financial institutions that serve cannabis-related businesses (CRBs), as well as their numerous service providers, in states and other jurisdictions where cannabis is legal. [ICBA polling](#) conducted by Morning Consult found that two-thirds of voters support cannabis banking access.

S. 1323 is essential for the ongoing ability of community banks to effectively serve their communities. It would also alleviate the significant threat to public safety posed by cash intensive CRBs effectively being shut out of the banking industry. According to the same poll referenced above, 71 percent of voters agree that allowing cannabis-related businesses to access the banking system would help reduce the risk of robbery and assault at CRBs — showing the importance of the policy to public safety.

Thank you again for introducing this important legislation. We look forward to working with you to advance it into law.

Sincerely,

/s/

Rebeca Romero Rainey
 President & CEO

The Nation's Voice for Community Banks.®

WASHINGTON, DC 1615 I Street NW Suite 900 Washington, DC 20036	Sauk Centre, MN 518 Lincoln Road P.O. Box 267 Sauk Centre, MN 56378	866-843-4222 www.icba.org
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INTERNATIONAL BROTHERHOOD OF TEAMSTERS

SEAN M. O'BRIEN
General President

25 Louisiana Avenue, NW
Washington, DC 20001



FRED E. ZUCKERMAN
General Secretary-Treasurer

202-624-6800
www.teamster.org

May 10, 2023

VIA Electronic Transmission

United States Senate
Washington, D.C. 20510

Senator Sherrod Brown – Chairman
Senate Committee on Banking,
Housing and Urban Affairs

Senator Tim Scott – Ranking Member
Senate Committee on Banking
Housing and Urban Affairs

Dear Chairman Brown and Ranking Member Scott,

On behalf of the 1.2 million members of the International Brotherhood of Teamsters, I would like to submit a statement for the record in support of S. 1323, the Secure and Fair Enforcement (SAFE) Banking Act. The Teamsters represent thousands of cannabis workers in retail and transportation. This legislation would drastically improve workplace safety conditions by allowing banks and other financial institutions to provide services to legitimate cannabis-related businesses.

When businesses can't operate normally by accessing the traditional financial infrastructure of this country, it poses a risk not just to the business but to their employees. Cannabis workers, many of whom are Teamster members, must operate in an all-cash environment which puts them and their customers at risk to violent theft and robbery. Workers themselves often find it difficult to secure mortgages or access to basic banking, like a checking account because financial institutions are overly and unfairly cautious about the source of their income.

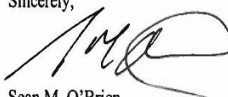
There are thousands working in the cultivation, distribution, and sale of cannabis for both personal and recreational use in 38 states. These workers deserve a safe workplace that provides meaningful wages, healthcare, and access to retirement security. Unfortunately, many of these workers cannot engage in a meaningful partnership with their employer, in part because of how the cannabis industry is forced to operate in the financial dark.

Teamster members at three Chicago, IL dispensaries for example were forced to walk off the job twice, earlier this year. The employer, Green Thumb Industries engaged in multiple Unfair Labor Practice (ULP) violations, and workers were forced to go on strike. As Congress works to establish the necessary guardrails around cannabis legalization, the labor and safety interests of workers in this industry must be considered paramount. Passing SAFE Banking is a necessary part of this process and will improve worker safety conditions while also easing operational burdens for employers at the same time.

Unites State Senate
May 10th, 2023
Page 2 of 2

The Teamsters are committed to helping the cannabis industry grow through the passage of the SAFE Banking Act, which will make sure these companies prioritize the care and safety of their workers. I thank you for the opportunity to submit this formal statement for this hearing: *Examining Cannabis Banking Challenges of Small Businesses and Workers.*

Sincerely,



Sean M. O'Brien
General President
International Brotherhood of Teamsters

SMO/bt



May 9, 2023

Dear Senators Merkley and Daines and Representatives Joyce and Blumenauer:

We, the undersigned U.S. trade associations, write to express support for the SAFE Banking Act of 2023. Collectively, we represent a majority of the companies, agents, and brokers offering property-casualty, life, title, and reinsurance (collectively, “insurers”) in the U.S. We appreciate your leadership in seeking needed clarity for insurance transactions related to marijuana businesses that are otherwise permissible under state law.

The insurance industry is potentially exposed to liability arising from the differences of the legal treatment of marijuana and marijuana products under federal and state law and regulation at the state level. However, with the inclusion of key language from the Clarifying Law Around Insurance of Marijuana Act, sponsored by Senators Menendez, Paul, Tester, Daines, and Merkley and Representatives Velázquez and Davidson, the SAFE Banking Act’s safe harbor provisions would prevent federal criminal prosecution of and civil liability for agents, brokers, and insurers, their officers, directors or employees when engaging in the business of insurance in states that have legalized marijuana in some form.

By resolving the legal uncertainty presented by the dueling state and federal treatment of marijuana, the insurance industry can serve both State-sanctioned marijuana businesses and other commercial and personal lines consumers who may have a direct or indirect relationship to State-legalized marijuana, and still be in compliance with the law. Insurers must also continue to satisfy all applicable state statutory or regulatory requirements, such as those pertaining to consumer protections and claims payments.

We greatly appreciate your leadership, and we look forward to continuing to work with you and Congress to ensure our industry is not caught between conflicting obligations under federal and state law.

Sincerely,

American Land Title Association (ALTA)
 American Council of Life Insurers (ACLI)
 American Property Casualty Insurance Association (APCIA)
 The Council of Insurance Agents & Brokers (CIAB)
 Independent Insurance Agents & Brokers of America (IIABA)
 National Association of Mutual Insurance Companies (NAMIC)
 National Association of Professional Insurance Agents (PIA)
 Reinsurance Association of America (RAA)
 Wholesale & Specialty Insurance Association (WSIA)



Kirsten Sutton
Executive Vice President
Congressional Relations & Legislative Affairs
P: 202-663-5356
ksutton@aba.com

May 3, 2023

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Hakeem Jeffries
House Minority Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and Urban
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Speaker McCarthy, Majority Leader Schumer, Minority Leaders McConnell and Jeffries, Chairmen Brown and McHenry, and Ranking Members Scott and Waters:

On behalf of the American Bankers Association (ABA), I am writing to express our strong support for H.R. 2891 /S. 1323, the Secure and Fair Enforcement Banking Act (SAFE Banking Act) of 2023 sponsored by Senators Jeff Merkley (D-OR) and Steve Daines (R-MT) and Representatives Dave Joyce (R-OH-14) and Earl Blumenauer (D-OR-03). This important legislation would help bring certainty to an important issue that has become a challenge for so many of our nation's communities and the banks that serve them.

The SAFE Banking Act is an urgently needed, and widely supported, bipartisan solution that will allow banks to handle not only the proceeds from both state-licensed cannabis businesses and the ancillary businesses—accountants, skilled trades, landlords, law firms, and other service providers—those businesses rely upon to operate, but also accept deposits from and make loans to employees of those businesses. Federal law currently prevents banks from banking cannabis businesses and these ancillary businesses, without fear of federal sanctions. As a result, this industry is operating primarily in cash, which is not only a public safety risk, but also undermines the ability for regulators, tax collectors, and law enforcement to monitor the industry effectively.

Financial institutions must adhere to stringent anti-money laundering and counter-terrorist financing reporting requirements, so bringing this industry into the regulated banking system will provide much-needed visibility into its financial activity. Processing transactions through bank accounts instead of in cash would ensure that regulators and law enforcement have the necessary tools to identify bad actors and also enhance tax collection and financial transparency in the thirty-seven states where cannabis is now legal at the state level.

While ABA does not take a position on the legalization of cannabis, our member banks find themselves in conflict between state and federal law, with local communities encouraging them to bank cannabis businesses and federal law prohibiting it.

The Controlled Substances Act (21 U.S.C. §801 et seq.) classifies cannabis as an illegal drug and prohibits its use for any purpose. For banks, that means that all proceeds generated by a cannabis-related or ancillary business, even when operating in compliance with state law, are unlawful under federal law, and so any attempt to conduct a financial transaction with that money (including simply accepting a deposit) can be considered money-laundering. Thus, banking cannabis businesses, or any of the non-cannabis focused vendors or businesses that serve them, places banks in the untenable position of dealing with these state-authorized businesses at significant risk of regulatory sanction, loss of access to the payments system or even the potential loss of the bank charter itself.

Currently, the only directive available to financial institutions in connection with cannabis-related accounts comes from guidance issued by the Financial Crimes Enforcement Network (FinCEN) in 2014. That guidance, which references a now-rescinded memorandum from the U.S. Department of Justice (the "Cole Memo"), describes how financial institutions can report cannabis-related business activity consistent with their anti-money laundering obligations. However, it merely creates a system for reporting activity that is illegal under federal law but otherwise legal under state law and does not create a safe harbor or otherwise modify federal law to protect banks from criminal and civil liability for providing financial services to state-sanctioned cannabis businesses.

The bipartisan, bicameral, SAFE Banking Act would provide that legal and regulatory clarity for banks and help facilitate access to financial services for state-sanctioned cannabis businesses while strengthening the ability of financial institutions and law enforcement to detect unlawful activity.

The bill specifies that proceeds from a state-sanctioned cannabis business would not be considered unlawful under federal money laundering statutes or any other federal law, which is necessary to allow the provision of financial services to state-sanctioned cannabis businesses as well as any ancillary businesses that derive some portion of their income from those businesses. The bill would also direct FinCEN, and the federal banking regulators through the Federal

Financial Institutions Examination Council, to issue guidance and exam procedures for banks doing business with state-sanctioned cannabis businesses. Explicit, consistent direction from federal financial regulators will provide needed clarity for banks and help them better evaluate the risks and supervisory expectations for cannabis-related customers.

This legislation has garnered strong bipartisan support in both the House and Senate, and ABA urges all Members of Congress to please join in cosponsoring the SAFE Banking Act. ABA also requests swift consideration of these bills in both the Senate Banking and House Financial Services Committees, through regular order, and further advocates for swift passage by Congress.

Sincerely,

A handwritten signature in black ink that reads "Kristin Sutton". The signature is written in a cursive, flowing style.

cc: Members of the U.S. Senate
Members of the U.S. House of Representatives

October 11, 2017

Rep. Blaine Luetkemeyer
U.S. House of Representatives
Washington, DC 20515

RE: Oppose H.R. 2706 (Luetkemeyer), Financial Institution Consumer Protection Act of 2017, which will restrict efforts to protect consumers and banks from fraud, money-laundering and other illegal activities

Dear: Congressman Luetkemeyer:

The undersigned consumer and civil rights organizations oppose H.R. 2706, the Financial Institution Customer Protection Act of 2017. The bill will hamper the efforts of banking regulators to advise financial institutions of warning signs that their customers are engaging in fraud, money laundering, or other illegal activity, putting consumers and financial institutions at risk of serious financial loss. The bill would also promote spurious litigation against regulators and financial institutions when an account is closed. **This bill is more harmful now than ever in light of the critical importance of blocking access to the payment system by criminals who may use information from the Equifax and other data breaches.**

H.R. 2706 would put needless hurdles in the way of regulators who are working to make financial institutions aware of signs that their customers could be engaging in illegal activity. The bill does not merely apply to direct orders from a federal banking agency to close a bank account – something that rarely if ever happens. Onerous procedures are also triggered by “informal” “requests” and by any other action taken to “restrict or discourage a depository institution from entering into or maintaining a banking relationship with a specific customer or group of customers ...”

This vague and broad trigger could apply any time a regulator warns financial institutions of the signs of potential illegal or fraudulent activity, even if it is unrelated to a particular customer and relates to criminals as a group. The bill would require the agency to justify that it has a “material reason” other than reputational risk for its warning; to provide written justification to the financial institution with “legal authority;” and to issue annual reports to Congress. The bill would impose new, burdensome requirements before an agency could warn a financial institution about red flags of fraudulent conduct or of cash-heavy activity that could be a sign of money laundering, whether the warning relates to a particular customer or criminals as a group.

The bill would frustrate efforts to protect financial institutions. Banks are exposed to risks if their customers engage in payment fraud or otherwise commit criminal activity. Banks by law warrant the legality of payments when the bank serves as an intermediary between payors and payees,¹ and they are also exposed to risks if they overlook clear warning signs of illegal activity. Regulators are doing their job to protect not only the public but also financial institutions by warning them of these risks.

The bill could tip off criminals to sensitive investigations. The bill also requires financial institutions to inform customers of the justification for terminating an account if an agency orders an account or “group” of accounts closed (i.e., all accounts used for criminal activity). Tellingly, this requirement does not

¹ See Testimony of Adam J. Levitin, Professor of Law, Georgetown University Law Center, Before the United States House of Representatives, Judiciary Committee, Subcommittee on Regulatory Reform, Commercial, and Antitrust Law, “Guilty Until Proven Innocent? A Study of the Propriety & Legal Authority for the Justice Department’s Operation Choke Point” at 9-10 (July 17, 2014), http://judiciary.house.gov/_cache/files/f6210f6f-68eb-49b6-b617-167eeefdc3b/levitin-testimony.pdf.

Oppose H.R. 2706 (Luetkemeyer)

apply if the account was closed based on a threat to national security – in that case, the financial institution is *forbidden* to inform the customer of the reason. Yet sensitive investigations could be underway that do not involve national security – such as widespread fraud against consumers based on the Equifax breach, or money laundering of cash by criminals engaged in domestic drug sales.

The bill would also encourage litigation against regulators and financial institutions any time an institution closes a bank account. Banks close accounts every day for a variety of reasons. The internet has been full of unsubstantiated speculation and conspiracy theories about government overreach that have no basis in fact. At the request of Rep. Luetkemeyer and other members of the House, the Department of Justice Office of Professional Responsibility conducted a review of the allegations that DOJ staff had wrongly forced banks to terminate their relationships with legal businesses. The findings of that inquiry showed conclusively that there was no evidence of misconduct.² A report from the Federal Deposit Insurance Corporation Inspector General also found that the FDIC's involvement in Operation Choke Point was inconsequential.³ Yet, under the bill, any time that a bank account is closed, the customer could sue, claiming that the regulator "informally" "discouraged" the account and neither the regulator nor the financial institution followed the procedures required.

This bill was originally introduced last year in an effort to curtail the Department of Justice's Operation Choke Point. Spurious claims were made against DOJ, claiming that the operation was an effort to force banks to close the accounts of customers operating legally. To the contrary, every case that DOJ brought under that operation involved a bank or payment processor that was ***knowingly engaged in scams and other fraudulent activity*** that resulted in millions of dollars drained from consumers' bank accounts:

- **CommerceWest Bank** ignored explicit notice from other banks about ***fraud schemes targeting the elderly***, allowing its customer to steal tens of millions of dollars from consumers' bank accounts.
- **Plaza Bank's** chief operating officer, who was secretly the part-owner of a payment processor, brushed aside warnings from the bank's compliance officer and allowed ***fraudsters unfettered access to the bank accounts*** of tens of thousands of consumers.
- **Four Oaks Bank & Trust** facilitated illegal payments taken out of consumer accounts for a ***Ponzi scheme, a scam operation targeted by the FTC, and illegal and fraudulent payday loans.***
- **Neil Godfrey** pleaded guilty to criminal charges that he used Check Site Inc., a payment processor, to help scammers take millions of dollars from consumers. Purported payday loan websites were actually a ***ruse to harvest bank account information*** that Godfrey used to create fake remotely created checks deposited against consumer accounts. Godfrey admitted that he was an ***expert in finding banks that were willing to ignore the red flags*** raised by these checks and in deceiving other banks.

² Weinsheimer, G. Bradley. "Department of Justice OPR Inquiry Regarding Operation Choke Point," July 9, 2015. <http://huff.to/1GLapkl>.

³ "The FDIC's Role in Operation Choke Point and Supervisory Approach to Institutions That Conducted Business with Merchants Associated with High-Risk Activities." Washington, DC: Federal Deposit Insurance Corporation Office of the Inspector General, September 2015. <https://www.fdicig.gov/reports15%5C15-008AUD.pdf>.

Oppose H.R. 2706 (Luetkemeyer)

DOJ has now terminated Operation Choke Point. But fraudsters and other criminals are still targeting consumers' bank accounts. We can expect these threats to increase in the future as vast amounts of sensitive personal financial information are now in the hands of criminals.

The Neil Godfrey case above is instructive. Mr. Godfrey was sentenced last summer to 15 months in prison. As the Justice Department explained:

"Godfrey used banks that were willing to facilitate these [fraudulent] transactions and ignore the red flags raised by these transactions. The charges also alleged that Godfrey helped the fraudulent merchants stay off the radar of bank employees and regulators so that the fraud could continue. For example, Godfrey advised merchants how to change the names of their companies and set up the facade of a legitimate company to defeat banks' attempts at due diligence."

In an email message quoted in the charging documents, Godfrey advised a fraudulent merchant:

"[T]he lesson we have learned is that we must trick the [bank] folk. It means you need to set up some type of website front. What we need to do is set up a legitimate website selling anything you can think of – that is what you get approved on. It is irrelevant if anything is ever sold there – just so it exists. . . . In the mean time we set up false credit card approval etcetera. It is this we use to run the transactions. Yes, there will be a lot of returns, but what we do is send through transactions over the next few weeks that don't have high returns. They stop looking and then we can run the regular stuff. . . . [A]fter several months we junk that company and go to another company."⁴

Under the bill, a banking regulator could be required to provide a written justification with "legal authority" and "material justification" any time a bank regulator or examiner advises financial institutions of red flags of the type of fraudulent activity that Mr. Godfrey engaged in.

* * *

With escalating data breaches, terrorism threats and internet fraud, we need to encourage, not discourage, efforts to highlight red flags of illegal activity and to deprive criminals of access to the banking system. H.R. 2706 will only frustrate the efforts of federal regulators that to date, have successfully halted numerous mass-market fraud schemes and protected countless consumers from the financial hardship that follows fraud.

The Equifax data breach allowed criminals access to the sensitive personal financial information of 145.5 million people. Now more than ever, financial institutions must be vigilant against criminals who might use that information to defraud Americans. This is not the time to weaken oversight over entities that look the other way when their customers engage in criminal activity.

We urge you to oppose H.R. 2706 other efforts to hinder critical federal agency activities to protect the public.

Yours very truly,

Americans for Financial Reform
Center for Responsible Lending
Consumer Action

⁴ <https://www.justice.gov/opa/pr/california-payment-processing-company-president-and-part-owner-sentenced-prison-fraud-scheme>.

Oppose H.R. 2706 (Luetkemeyer)

Consumer Federation of America
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
New Economy Project
Public Citizen
Woodstock Institute
U.S. PIRG

Cc: Members of the House Financial Services Committee

CANNRA

CANNABIS REGULATORS ASSOCIATION

May 10, 2023

Chairman Sherrod Brown
U.S. Senate Committee on Banking, Housing,
and Urban Affairs
U.S. Senate
Washington, D.C. 20510

Ranking Member Tim Scott
U.S. Senate Committee on Banking, Housing,
and Urban Affairs
U.S. Senate
Washington, D.C. 20510

RE: Ongoing Urgency of Cannabis Banking Situation in States and Need for Policy Solutions

The Cannabis Regulators Association (CANNRA) commends Congress for their bipartisan work on legislation to provide banking and financial services for the regulated cannabis industry and those who work with the industry. CANNRA is a nonpartisan, non-profit association that convenes governmental officials involved in cannabis regulation across more than 40 states and U.S. territories.

Our member states and territories continue to report negative impacts from the lack of available financial and banking services for regulated cannabis businesses and those working with the cannabis industry. CANNRA previously sent a [letter in May 2022](#) urging Congress to consider the realities and experience of state regulators when pursuing these important policy measures. Our prior letter highlighted banking and finance-related challenges cannabis regulators have observed in their states and territories. This letter provides updates regarding these issues, further demonstrating the importance of federal action.

Public safety issues continue, and in some cases have increased over last year.

Our letter last May detailed that cannabis regulators across a number of states reported that licensees had experienced break-ins and robberies primarily associated with cash-based operations. Some of these robberies tragically resulted in death. Robberies and thefts have not only continued but have been increasing in some states in this year compared with last year. For example, the state of Oregon documented 43 thefts in the first four months of 2022, and 52 thefts in the first four months of 2023, representing a 20% increase. The state of Michigan's Cannabis Regulatory Agency released an advisory bulletin in November of 2022 highlighting increased criminal activity against licensed cannabis businesses, including 117 break-ins reported between April and November 2022. Michigan also reported 13 thefts from cannabis delivery drivers over a six-week period between December 2022 and January 2023. The state of Oklahoma documented nearly 40 thefts between August 2022 and March 2023, averaging nearly five thefts a month.

Predatory banking and a lack of access to capital disproportionately impact small businesses.

Our letter last May detailed impacts on small and minority businesses in the cannabis industry, including challenges accessing affordable banking services and difficulties accessing loans and capital – often resulting in small businesses amassing significant personal debt to finance their businesses because of costly banking fees and challenges obtaining loans. For example, the state of Hawaii reported that licensees do not have access to the state's largest bank. There is a credit union offering banking services, but because of the perceived risk of banking cannabis-related funds, licensees pay for services at a rate of 6% when other non-cannabis industries bank at a rate of 0.5%. Other states, even states that have operated adult use marketplaces for nearly a decade report that banking services can cost licensees \$1000 a month or more.

Some licensees are completely left out of banking. An increasing number of states have licensing schemes that prioritize licenses for individuals with past cannabis-related convictions. Because of their past criminal record, these individuals may have no access to banking or financial services. It is important for banking solutions to account for the number of states prioritizing licenses or specific license types for

those with past cannabis-related convictions, as this can represent a substantial proportion of some state marketplaces.

State government agencies struggle to access banking and financial services as well.

As reported in our May 2022 letter, several state government agencies have had and continue to have challenges finding banks they can use to bank licensee funds. For example, in both Maryland and West Virginia, the state contracted bank would not accept funds related to the cannabis regulatory program. Both states had to undergo a separate procurement process to identify a different bank that would take licensee fees paid in compliance with the state program regulations. Similarly, the state contracted bank in Virginia has denied requests for a purchasing card to pay for general agency operating expenses, including expenses not funded by cannabis licensing fees and not tied directly to cannabis regulatory activity. Other states, like Maine, have struggled to be able to accept credit card payments for licensee fees.

The lack of safe banking and access to financial services for the regulated cannabis industry and those involved with the industry continues to be an urgent issue, resulting in ongoing public safety threats, disproportionately impacting small businesses across states and territories, and even impacting some state governments administering cannabis regulations. Cannabis regulators across states and US territories continue to strive for regulations that protect public health and consumer safety, promote equity, and promote regulatory certainty for industry operators. Access to safe banking is an integral part of our ability to accomplish these goals. We urge Congress to take this issue seriously and to move swiftly to provide policy solutions that reach the breadth of cannabis businesses operating in state and territorial marketplaces.

Respectfully,



Gillian L. Schauer, PhD, MPH
Executive Director, CANNRA



Tyler Klimas, President, CANNRA
Executive Director, Nevada Cannabis Compliance Board



Chris Tholkes, Treasurer, CANNRA
Director, Minnesota Medical Cannabis Program



Dominique Mendiola, Board Member, CANNRA
Senior Director, Colorado Marijuana Enforcement Division



Michele Nakata, Board Member, CANNRA
Chief, Hawaii Office of Medical Cannabis Control and Regulation



William Tilburg, Board Member, CANNRA
Executive Director, Maryland Cannabis Administration



Andrew Turnage, Board Member, CANNRA
Executive Director, Georgia Access to Medical Cannabis Commission

CANNABIS REGULATORS ASSOCIATION

Alabama - Alaska - Arizona - Arkansas - California - Colorado - Connecticut - Delaware - District of Columbia - Florida - Georgia - Guam - Hawaii - Illinois - Iowa - Maine - Maryland - Massachusetts - Michigan - Minnesota - Mississippi - Missouri - Montana - Nevada - New Hampshire - New Jersey - New Mexico - New York - North Dakota - Ohio - Oklahoma - Oregon - Pennsylvania - Rhode Island - South Dakota - Texas - Utah - Vermont - Virginia - Virgin Islands - Washington

Contact Us:

www.cann-ra.org | info@cann-ra.org

May 10, 2023

The Honorable Sherrod Brown
Chairman
Senate Banking, Housing and Urban
Affairs Committee
Washington, D.C. 20515

The Honorable Tim Scott
Ranking Member
Senate Banking, Housing and Urban
Affairs Committee
Washington, D.C. 20515

Chairman Brown and Ranking Member Scott:

On behalf of the members of the American Bankers Association (ABA)¹ and the undersigned state bankers associations, which represent banks of all sizes from every state in the country, we write to express our support for the SAFE Banking Act (S. 1323) and to thank you for holding this important hearing. We encourage the Senate Banking, Housing and Urban Affairs Committee to markup and advance the legislation as soon as possible.

The SAFE Banking Act is an urgently needed, and widely supported, bipartisan legislative solution to allow banks to handle the proceeds from state-licensed cannabis businesses and the accountants, skilled trades, landlords, law firms, and other service providers they rely upon for legal operations. Federal law prevents banks from banking cannabis businesses, as well as these ancillary businesses, without fear of federal sanctions. As a result, this industry is operating primarily in cash, which causes significant public safety concerns and undermines the ability of cannabis regulators, tax collectors, law enforcement and national security organizations to monitor the industry effectively.

The SAFE Banking Act is a narrowly tailored solution designed to bring this growing industry into the regulated banking system and provide much-needed visibility into its financial activity. Financial institutions adhere to stringent anti-money laundering and counter-terrorist financing reporting requirements, as well as monitor accounts for suspicious activity. The increased transparency that would come from processing transactions through bank accounts instead of in cash would ensure that regulators and law enforcement have the necessary tools to identify bad actors and remove them from the marketplace. The legislation would also enhance tax collection in the states where cannabis is now legal.

The inability of the state-licensed cannabis industry to access safe and regulated financial services is a pressing concern for so many of our nation's communities and the banks that serve

¹ The American Bankers Association is the voice of the nation's \$23.6 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$19.2 trillion in deposits and extend \$12.2 trillion in loans.

them. With state-licensed cannabis businesses currently authorized in 38 states and more states weighing legalization, we urge you to address these critical issues by marking up and advancing the SAFE Banking Act as quickly as possible.

Sincerely,

A handwritten signature in black ink that reads "Kristin Sutton". The signature is written in a cursive, flowing style.

cc: Members of the Senate Banking, Housing and Urban Affairs Committee



May 11, 2023

The Honorable Sherrod Brown
Chairman
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
503 Hart Senate Office Building
Washington, DC 20510

The Honorable Tim Scott
Ranking Member
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
104 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Brown and Ranking Member Scott:

On behalf of the 1.5 million members of the National Association of REALTORS® (NAR) and its affiliate, the Institute of Real Estate Management (IREM), thank you for holding today's hearing, "Examining Cannabis Banking Challenges of Small Businesses and Workers." NAR is a strong supporter of S.1323, the Secure and Fair Enforcement (SAFE) Banking Act, a bipartisan bill that provides a clear framework for cannabis businesses and those who provide services to them to access financial services. As more states legalize cannabis use, its economic impact increases, with more than \$10 billion in sales and \$1 billion in state tax revenue already recorded. However, the barriers keeping these state-legal businesses from accessing federally-insured banks can impede their ability to grow while raising safety issues in their communities.

Thirty-eight states, three territories, and the District of Columbia have legalized cannabis for medical or recreational use, a number that is expected to continue to go up in the coming years. Despite this, current federal law prevents federally-insured banks from working with cannabis businesses, as well as ancillary businesses that provide them with goods and services – including real estate professionals who have cannabis business owners as their clients. As a result, those states are struggling to address significant challenges to public safety and the regulatory compliance issues that arise with cash-only businesses.

The SAFE Banking Act takes an important step toward enabling financial services for legitimate cannabis-related businesses by specifying that their proceeds will not be considered unlawful under federal money laundering laws, thus allowing these businesses access to federally-insured banking institutions. Importantly, for the first time this legislation extends that safe-harbor to Community Development Financial Institutions (CDFI) and Minority Depository Institutions (MDI), which reach underserved communities which face increased challenges accessing capital. Further, it directs the Financial Crimes Enforcement Network (FinCEN) and federal banking regulators to issue guidance and exam procedures for banks working with cannabis businesses. As the legal state-cannabis industry grows, the connections to other types of industries – including real estate – will grow as well.

State-legal cannabis businesses require real estate – farmland, warehouses, and storefronts – creating multiple contacts to other industries and businesses, each of which



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is affected by current laws keeping their money out of the bank system. The SAFE Banking Act provides clarity for business owners, banks, and regulators in the cannabis industry while promoting safety and ensuring further growth to the U.S. economy.

REALTORS® thank you for your diligent work to help provide access and clarity to legitimate businesses in those states that have legalized cannabis, which in turn will boost economic growth in real estate and other industries around the country.

Sincerely,



Kenny Parcell
2023 President, National Association of REALTORS®

cc: U.S. Senate Committee on Banking, Housing, and Urban Affairs



April 20, 2023

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500



CC:

The Honorable Merrick Garland
Attorney General
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable Xavier Becerra
Health and Human Services Secretary
200 Independence Ave SW
Washington, DC 20201

The Honorable Anne Milgram
Administrator of Drug Enforcement
8701 Morrisette Drive
Springfield, VA 22152

The Honorable Robert Califf
Commissioner of Food and Drugs
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear President Biden:

We, the undersigned local, state, and national advocacy organizations, write to acknowledge your October 6, 2022 announcement pardoning simple federal marijuana possession cases for some people, encouraging state governors to also pardon marijuana cases, and initiating the administrative review process for evaluation of marijuana's placement on the Controlled Substances Act (CSA) drug schedule. We share your administration's sentiment that "too many lives have been upended because of our failed approach to marijuana," and are encouraged by these important first steps towards ending and repairing the harms caused by marijuana criminalization and the racist enforcement of marijuana laws.

Nonetheless, these actions alone, will neither fully end future harms of marijuana criminalization nor repair past harms. **Accordingly, we urge you and your administration to take the steps necessary to deschedule marijuana in conjunction with other administrative actions that center Black, Indigenous, and people of color (BIPOC) communities.¹ Additionally, we implore your administration to support comprehensive marijuana reform legislation in Congress, such as the Cannabis Administration and Opportunity Act (CAOA), a bill that deschedules marijuana, repairs the past harms of prohibition, and provides a regulatory framework for marijuana markets.**

¹ See Drug Policy Alliance. (2023, January 18). *Biden Administration – Next Steps re Federal Marijuana Reform*. https://drugpolicy.org/sites/default/files/biden_administration_-_next_steps_re_federal_marijuana_reform_final.pdf

Background

The overwhelming majority of individuals impacted by federal marijuana criminalization were left out of the relief granted by the pardons.² Notably, the pardon announcement did not lead to the release of any individuals from federal incarceration because federal sentencing schemes typically send people to prison for higher-level offenses that are more complex than simple marijuana possession.³ For instance, none of the 8,653 people sentenced for marijuana trafficking offenses from 2017 to 2021 would be eligible for relief under the pardon. These prosecutions often resulted in stiff sentences even for people with little-to-no prior criminal history, with approximately one out of five given sentences for five years or longer despite fewer than 2% being classified as career offenders.⁴ Notably, Black and Hispanic individuals accounted for 80.7% of these federal marijuana trafficking convictions.⁵ These sentences were imposed at a time when dozens of states have already legalized some form of commercial production and distribution of marijuana, with 37 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands having done so for medical or adult-use as of 2023.⁶

Additionally, the pardon announcement explicitly excluded a large share of noncitizens, who face mandatory detention, deportation, and other immigration consequences based on minor possession convictions. In fact, since 2003, ICE has deported more than 45,000 immigrants whose most serious offense was marijuana possession.⁷ Even those noncitizens who were included in the announcement should be provided specific assurance from the Administration that pardoned convictions will not be used as a basis for deportation or denial of immigration benefits.

Moreover, noncitizens suffer extreme immigration penalties due to the federal prohibition on marijuana even when they are in compliance with state and local marijuana laws. Although 21 states and the District of Columbia have legalized marijuana for adults 21 and older,⁸ noncitizens are regularly denied green cards and naturalization, and deported, for admitting to conduct that is permitted under state law, such as use of medical or recreational marijuana;

² Lampe, J.R. (2023). *The Controlled Substances Act (CSA): A legal overview for the 118th Congress* (CRS Report No. R45948). Congressional Research Service, 33-34.

<https://crsreports.congress.gov/product/pdf/R/R45948>

³ National Criminal Justice Association, Arizona State University, & Crime Justice Journalists. (2023, January 11). *No Federal Inmates Are In Prison Only For Marijuana Possession*.

<https://www.ncja.org/crimeandjusticeneews/no-federal-inmates-are-in-prison-only-for-marijuana-possession>

⁴ United States Sentencing Commission. (2022, July). *Quick Facts on Marijuana Trafficking Offenses*.

https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Marijuana_FY21.pdf

⁵ Id.

⁶ National Conference of State Legislatures. (2022, September 12). *State Medical Cannabis Laws*.

<https://www.ncsl.org/health/state-medical-cannabis-laws>

⁷ Ocasio-Cortez, A., Omar, I., & Garcia, J.G. (2022, November, 15). *Letter on Extending the Pardon*.

<https://omar.house.gov/media/press-releases/ocasio-cortez-omar-and-jesus-g-chuy-garcia-lead-letter-calling-president>

⁸ Modine, H. (2022, October 6). *What Biden's Pardon For Marijuana Convictions Means For Immigrants*. Transactional Records Access Clearinghouse at Syracuse University.

<https://trac.syr.edu/tracatwork/detail/A5133.html>

⁹ National Conference of State Legislatures. (2022, September 12). *State Medical Cannabis Laws*.

<https://www.ncsl.org/health/state-medical-cannabis-laws>

working legally in the marijuana industry; or for old convictions that are "expunged" or sometimes even vacated, because the Department of Homeland Security does not always give effect to state post-conviction relief.⁹

Further, the pardon announcement leaves *everyone* at risk for future federal marijuana arrests, even for simple possession. Given the impact that a marijuana possession charge can have on future sentences as well as the racial disparities in marijuana arrests, the continuation of marijuana criminalization will allow for continued arrests, and only exacerbate racial injustice in criminal sentencing.¹⁰ Marijuana legalization is popular on both sides of the aisle, with 68% of those polled supporting marijuana legalization, including majorities from both Democrats and Republicans.¹¹ To end and repair the harms of criminalization, it is essential that the federal government "deschedule" (remove) marijuana from the CSA.

We urge you and your administration to take bold action to bring about marijuana descheduling and comprehensive reform rooted in equity. Such reforms should automatically expunge federal marijuana cases, provide pathways to resentencing and release, and ensure that noncitizens will not be arrested, detained, deported, denied immigration status or otherwise face immigration consequences for federal or state marijuana law violations, including for working in state-legal marijuana industries. Importantly, legal relief for marijuana offenses must be applied retroactively in order for formerly incarcerated individuals to have a chance at rebuilding their lives and for noncitizens to live free of the fear of deportation for old offenses or prior marijuana industry work history.

Beyond these criminal justice reforms, the federal government must take a comprehensive approach to reform that centers BIPOC communities that have suffered disproportionate and immeasurable social and economic harms from targeted marijuana criminalization. In order to account for these harms marijuana descheduling must be coupled with an equitable regulatory framework that makes certain the economic benefit of the regulated marijuana industry flows to those who are most impacted by the war on drugs and disproportionately targeted by racially biased enforcement of marijuana laws.

Currently, a person in the U.S. is arrested for marijuana every 90 seconds, with Black, Latinx, and Indigenous individuals being disproportionately targeted despite similar usage rates as their

⁹ U.S. Citizenship and Immigration Services. *Policy Manual, Volume 12, Chapter 5, Part C.2, "Conditional GMC Bar Applies Regardless of State Law Decriminalizing Marijuana."* U.S. Dept. of Justice. <https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-5>

¹⁰ United States Sentencing Commission. (2023, January). *Weighing the Impact of Simple Possession of Marijuana: Trends and Sentencing in the Federal System.* https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20230110_Marijuana-Possession.pdf

¹¹ Jones, J.M. (2022, November 15). *Marijuana Views Linked to Ideology, Religiosity, Age.* Gallup. <https://news.gallup.com/poll/405086/marijuana-views-linked-ideology-religiosity-age.aspx>

white counterparts.^{12 13} While most of these arrests are made by state and local law enforcement, federal criminalization of marijuana is highly influential and discourages states from undertaking comprehensive marijuana reform.¹⁴ What is more, people with state law convictions are still subject to federal collateral consequences, including immigration consequences, and their record at the state level can still block them from accessing housing, jobs, and could complicate keeping families together. To end the hundreds of thousands of marijuana arrests and collateral consequences that take place every year, we must deschedule marijuana from the CSA.

Administrative Descheduling: Necessary But Insufficient

Marijuana must be fully removed from the CSA and descheduled. Rescheduling marijuana to a less restrictive schedule in the CSA would do little to address the harms of federal criminalization. As long as marijuana remains *anywhere* in the CSA, the majority of the problems associated with its criminalization will persist. Rescheduling would not bring the marijuana industry into compliance with existing federal laws and regulations outside of the CSA, such as the Food, Drug, and Cosmetic Act. The criminal penalties in the CSA are not tied to schedule status, meaning rescheduling would not stop future arrests, reduce sentences, or provide a pathway for resentencing, and it would continue to imperil noncitizens. Workers in the state-legal marijuana industry would continue to be denied the protections of the National Labor Relations Act (NLRA) and the Fair Labor Standards Act (FLSA) that are available to laborers in other industries. Small marijuana businesses and social equity entrepreneurs would continue to be denied access to Small Business Administration (SBA) funds, meaning large white-owned corporations would be able to further expand their economic advantage to profit off of the sales of a substance for which BIPOC individuals have been disproportionately prosecuted and remain incarcerated. Marijuana research would continue to face regulatory hindrances. Veterans would continue to be denied access to medical marijuana programs through their Veterans Administration doctors. Banks would continue to be hesitant to offer commercial loans to marijuana businesses, even if a safe-harbor bill is passed in the interim.

¹² Published arrest data from 2020 is still the most current reliable due to inconsistencies in the FBI's reported marijuana arrest data for 2021. Jaeger, K. (2021, September 27). *Marijuana Arrests Dropped Sharply In 2020 As Both COVID And Legalization Spread, FBI Data Shows*. Marijuana Moment. <https://www.marijuanamoment.net/marijuana-arrests-dropped-sharply-in-2020-as-both-covid-and-legalization-spread-fbi-data-shows/>; Jaeger, K. (2022, October 5). *New FBI Marijuana Arrest Data Riddled With Inconsistencies As Agency Touts Changes To Reporting System*. Marijuana Moment. <https://www.marijuanamoment.net/new-fbi-marijuana-arrest-data-riddled-with-inconsistencies-as-agency-touts-changes-to-reporting-system/>

¹³ American Civil Liberties Union. (2020, April 20). *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*. <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>

¹⁴ Lampe, J.R. (2023). *The Controlled Substances Act (CSA): A legal overview for the 118th Congress* (CRS Report No. R45948). Congressional Research Service, 9. <https://crsreports.congress.gov/product/pdf/R/R45948>

These are just some of the many consequences that can come from keeping marijuana in the CSA.¹⁵ Therefore, it is imperative that you and your administration take the steps necessary to deschedule marijuana, couple this with other administration actions that center BIPOC communities, and support comprehensive marijuana legislation in Congress.¹⁶

We understand that the POTUS cannot unilaterally end federal marijuana criminalization with the stroke of a pen. According to the Congressional Research Service, substances “may be added to or removed from a schedule or moved to a different schedule through agency action or by legislation.”¹⁷ While you have taken the bold first step toward administrative review, it remains unclear whether enough research has been conducted that will satisfy the way Health and Human Services (HHS) has traditionally applied the 8-factor analysis required by 21 U.S.C. § 811. Ironically, the primary reason for the lack of “well-controlled, well-designed, well-conducted, and well-documented scientific studies, including studies performed in a large number of patients” is due to the restrictions imposed by Schedule 1 on conducting large-scale clinical research on marijuana.¹⁸

We urge HHS and the Drug Enforcement Administration (DEA) to interpret the statutory requirements in a way that better reflects the political and scientific realities of marijuana. If the available science is generally as limited and interpreted as it was in the 2016 marijuana schedule status decision, there is a reasonable probability marijuana could remain in Schedule 1 despite it obviously not belonging there.¹⁹ While we must take science into account, we must also recognize that until very recently, marijuana had significantly more research barriers compared to other Schedule 1 substances.²⁰ While the *Medical Marijuana and Cannabidiol*

¹⁵ Reference the scheduling memo to learn about other implications.
Drug Policy Alliance. (2023). *Potential Implications of President Biden's Scheduling Review Order*.
https://drugpolicy.org/sites/default/files/marijuana_scheduling_memo.docx_.pdf

¹⁶ Reference the letter to the Biden Administration to see next steps.
Drug Policy Alliance. (2023, January 18). *Biden Administration – Next Steps re Federal Marijuana Reform*.
https://drugpolicy.org/sites/default/files/biden_administration_-_next_steps_re_federal_marijuana_reform_final.pdf

¹⁷ Lampe, J.R. (2023). *The Controlled Substances Act (CSA): A legal overview for the 118th Congress* (CRS Report No. R45948). Congressional Research Service, 9.
<https://crsreports.congress.gov/product/pdf/R/R45948>

¹⁸ United States Court of Appeals for the District of Columbia Circuit. (2013, January 21). *11-1265 - Americans for Safe Access, et al v. DEA*. [Government]. Administrative Office of the United States Courts.
<https://www.govinfo.gov/app/details/USCOURTS-caDC-11-01265>; United States Court of Appeals for the District of Columbia Circuit. (1994, February 18). *Alliance for Cannabis Therapeutics v. DEA*. [Government]. 15 F. 3d 1131.

¹⁹ Marijuana, in its natural form, is one of the safest therapeutically active substances known. The evidence in this record clearly shows that marijuana has been accepted as capable of relieving the distress of great numbers of very ill people, and doing so with safety under medical supervision. It would be unreasonable, arbitrary, and capricious for DEA to continue to stand between those sufferers and the benefits of this substance in light of the evidence in this record.”US Dept of Justice, Drug Enforcement Agency. *In the Matter of Marijuana Rescheduling Petition*. Docket 86-22. September 6, 1988, p 68.

²⁰ National Academies of Sciences, Engineering, and Medicine; Health and Medicine Division; Board on Population Health and Public Health Practice; Committee on the Health Effects of Marijuana: An Evidence Review and Research Agenda. (2017, January 12). *Challenges and Barriers in Conducting Cannabis Research. The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and*

Research Expansion Act you signed into law last year lifted many of these barriers, it will be many years, if not decades, until that bill results in completed research. This means it will be years before marijuana can be reviewed evenly compared to other substances which are easier to research. Given the vast harms caused by marijuana's placement in the CSA, we cannot afford to maintain federal marijuana criminalization while waiting for new research to become available.

Additionally, we urge you to form a task force to explore the appropriate schedule status of marijuana that takes into account factors that cannot be considered by HHS or DOJ agencies during the formal scheduling review. For example, medical studies conducted outside of the U.S. will not be considered under the 8-factor analysis but it would be a disservice for your administration not to take such studies into account. Groundbreaking marijuana research has been conducted in Israel and Europe but these will not be reviewed under the formal schedule status evaluation. Additionally, the political and social implications of marijuana's Schedule 1 status and the impacts of descheduling could be evaluated by such a task force. At a minimum, this task force should be composed of individuals who have been directly impacted by the racially disproportionate enforcement of marijuana criminalization, immigration advocates, social equity entrepreneurs, doctors, patients, researchers, veterans, and marijuana labor representatives.

In the meantime, there are other steps the administration can take in order to end the harms of criminalization, such as directing agencies to stop using state law marijuana convictions as a basis to deny federal benefits or as triggers for deportation. The Department of Justice could also issue a guidance memo to stop the prosecution of people for low-level marijuana offenses.²¹ The administration can also roll back the Reagan-era executive action that spurred pervasive drug testing for federal employees.

As you acknowledged in your October 6, 2022 statement, individuals with a previous marijuana conviction "may be denied employment, housing, or educational opportunities as a result."²² Therefore, we urge you to direct agencies such as the Department of Agriculture, Housing and Urban Development, Education, Homeland Security, and the Veterans Administration to adopt policies to lessen the collateral consequences of a marijuana conviction with respect to accessing federal benefits. Additionally, the Veterans Administration could take steps to make it easier for veterans to find relief from their battle wounds such as post traumatic stress disorder, traumatic brain injury, and chronic pain through the use of medical marijuana. In making these

Recommendations for Research. National Academies Press. 15.

<https://www.ncbi.nlm.nih.gov/books/NBK425757/>

²¹ See our letter to the Biden Administration for more ideas.

Drug Policy Alliance. (2023, January 18). *Biden Administration – Next Steps re Federal Marijuana Reform*.

https://drugpolicy.org/sites/default/files/biden_administration_-_next_steps_re_federal_marijuana_reform_final.pdf

²² Biden, J.R. (2022, October 6). *Statement from President Biden on Marijuana Reform*. The White House Briefing Room.

<https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/06/statement-from-president-biden-on-marijuana-reform/>

reforms, it is crucial to meet with advocacy groups and stakeholders, particularly individuals who have been directly and negatively impacted by these agencies for marijuana conduct. These are a few of many actions the administration can take to end the current harms of marijuana prohibition and criminalization, including reducing the harms of state law convictions which account for the vast majority of low-level marijuana convictions in the U.S.²³

The administrative descheduling of marijuana, coupled with other administrative actions, would be a huge step forward on criminal justice reform and would lay the cornerstone upon which additional components of comprehensive marijuana reform could be built. However, administrative descheduling in the absence of a comprehensive regulatory framework could potentially have some adverse consequences in the form of unregulated interstate commerce, which could wipe out many small marijuana businesses and social equity license holders without proper regulatory controls. Additionally, administrative descheduling would not be applied retroactively, nor would descheduling expunge federal marijuana arrests, seal records, or protect noncitizens from detention or deportation for marijuana conduct. This means the White House must work with Congress to pass comprehensive descheduling legislation.

Comprehensive Marijuana Legislation Must Accompany Descheduling

Descheduling marijuana through comprehensive Congressional legislation is the preferred path to end and repair the harms caused by criminalization. The House of Representatives has twice passed comprehensive descheduling legislation, the Marijuana Opportunity Reinvestment and Expungement (MORE) Act, in 2020 and 2022, that contained automatic expungement, retroactive relief, and dedicated marijuana tax revenue to reinvest in communities harmed by discriminatory enforcement of criminalization. More recently, Senate Majority Leader Schumer along with Senators Booker and Wyden introduced the Cannabis Administration and Opportunity Act (CAOA) in the 117th Congress. This bill builds off of the MORE Act and includes enhanced criminal justice reform, stronger protections for noncitizens, and a more robust regulatory framework. We urge you to use your influence to encourage Congress to pass comprehensive marijuana descheduling legislation that includes a well-thought-out plan for federal regulation and for implementing interstate commerce that is rooted in equity.

You have already taken an important initial step toward ending the failed policy of federal marijuana prohibition. Taking the additional actions outlined in this letter would have an exponentially greater impact than the first step alone. To end and repair the harms of decades of racially discriminatory enforcement of marijuana laws, we need complete and comprehensive legislative reform. This is not only the right thing to do, it is the popular thing as well, as a Data

²³ See our letter to the Biden Administration for more ideas. Drug Policy Alliance. (2023, January 18). *Biden Administration – Next Steps re Federal Marijuana Reform*. https://drugpolicy.org/sites/default/files/biden_administration_-_next_steps_re_federal_marijuana_reform_final.pdf

For Progress poll found even in states where marijuana remains criminalized, bipartisan majorities support ending marijuana criminalization for personal use and sales.²⁴

We implore you to take whatever steps are necessary to make sure marijuana is descheduled and encourage Congress to pass comprehensive legislation that includes criminal justice reform, repairing and centering communities most harmed by prohibition and criminalization, and a regulatory framework that is rooted in equity, justice, and public health.

For any questions about anything in this letter, or to discuss these objectives, please contact Maritza Perez Medina, Director of Federal Affairs at the Drug Policy Alliance, at mperez@drugpolicy.org. Thank you for your attention to this letter.

Sincerely,

2nd Chance Clemency Project
Advancement Project
AIDS Alabama
AIDS Foundation Chicago
AIDS United
American Atheists
American Civil Liberties Union
American Friends Service Committee
American Humanist Association
Better Organizing to Win Legalization
CAN-DO Foundation
Cannabis Equity IL Coalition
Cannabis Regulators of Color Coalition
Center for American Progress
Center for Housing & Health
Center for Policing Equity
Center for Popular Democracy
Chief Defenders Association of New York
Clergy for a New Drug Policy
Color Of Change
DC Justice Lab
Doctors for Cannabis Regulation
Dream.org
Drug Policy Alliance
Enact Consulting
Equal Justice USA
Fair and Just Prosecution

²⁴ Data for Progress. (2020, August 19). *Memo: The Case for Comprehensive Marijuana Reform - Policies & Public Opinion*. <https://www.dataforprogress.org/memos/case-for-comprehensive-marijuana-reform>

Hip Hop Caucus
 Human Rights Watch
 Immigrant Defense Project
 Immigrant Legal Resource Center (ILRC)
 Indivisible Marin
 Justice Roundtable
 Justice Strategies
 JustLeadershipUSA
 Kansas Cannabis Coalition, Inc
 LACAN (Los Angeles Community Action Network)
 Last Prisoner Project
 LatinoJustice PRLDEF
 Law Enforcement Action Partnership
 Law Offices of Omar Figueroa
 Marijuana Policy Project
 Minorities for Medical Marijuana
 Multidisciplinary Association for Psychedelic Studies (MAPS)
 National Association of Criminal Defense Lawyers
 National Council on Alcoholism and Drug Dependence-Maryland Chapter
 National Immigration Project (NIPNLG)
 National Organization for the Reform of Marijuana Laws (NORML)
 National Organization for Women
 National Pain Advocacy Center
 NETWORK Lobby for Catholic Social Justice
 OpioidSettlementTracker.com
 Parabola Center for Law and Policy
 People's Action
 Planted Association of Kansas
 progressivefl.org
 Rights & Democracy NH & VT
 RootsAction.org
 Sojourners
 Students for Sensible Drug Policy (SSDP)
 Students for Sensible Drug Policy, Adler University Chapter
 Students for Sensible Drug Policy, American University Chapter
 Students for Sensible Drug Policy, Arizona State University Chapter
 Students for Sensible Drug Policy, Bloomington, Indiana Chapter
 Students for Sensible Drug Policy, George Washington University
 Students for Sensible Drug Policy, Joliet Ambassador
 Students for Sensible Drug Policy, McHenry, Illinois
 Students for Sensible Drug Policy, Pittsburgh Community Chapter
 Students for Sensible Drug Policy, University of Houston Chapter
 Students for Sensible Drug Policy, University of Illinois Urbana-Champaign Chapter
 Students for Sensible Drug Policy, University of Maryland Chapter

Students for Sensible Drug Policy, University of North Texas Chapter
Students for Sensible Drug Policy, Virginia Tech Chapter
Sunita Jain Anti-Trafficking Initiative, Loyola Law School
Texans for Responsible Marijuana Policy
The Center for Constitutional Rights
The Hood Incubator
The National Council for Incarcerated and Formerly Incarcerated Women and Girls
The Porchlight Collective SAP
The Taifa Group
The Weldon Project
United Food and Commercial Workers International Union (UFCW)
Useful Strategies
Veterans Cannabis Coalition
VOCAL-WA