

117TH CONGRESS
2D SESSION

S. 5166

To establish a Commission on the Federal Regulation of Cannabis to study a prompt and plausible pathway to the Federal regulation of cannabis, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2022

Mr. HICKENLOOPER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish a Commission on the Federal Regulation of Cannabis to study a prompt and plausible pathway to the Federal regulation of cannabis, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preparing Regulators
5 Effectively for a Post-prohibition Adult-use Regulated En-
6 vironment Act of 2022” or the “PREPARE Act of 2022”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) Cannabis was federally legal in the United
2 States until 1937.

3 (2) Cannabis was federally prohibited to codify
4 discriminatory practices against minority commu-
5 nities.

6 (3) Medical cannabis prohibition was estab-
7 lished despite objection from the American Medical
8 Association.

9 (4) 37 States and the District of Columbia have
10 legalized cannabis for medical purposes.

11 (5) 18 States and the District of Columbia have
12 legalized cannabis for adult use.

13 (6) Despite the Federal Government collecting
14 revenue from the sale of cannabis, individuals are
15 still criminally persecuted for its use.

16 (7) Cannabis research, including research on
17 medical uses, product safety, and impairment stand-
18 ards, is severely hindered and made nearly impos-
19 sible by its schedule 1 classification.

20 (8) Cannabis should remain an adult product
21 aside from the physician prescribed treatment of mi-
22 nors.

23 (9) Cannabis has proven medically beneficial for
24 patients suffering from pain, cancer, post-traumatic

1 stress disorder, seizure disorders, multiple sclerosis,
2 among other diseases.

3 (10) Since 2003, the United States Government
4 by way of the Department of Health and Human
5 Services has held a patent for medical cannabis as
6 an antioxidant and neuroprotectant.

7 (11) While the United States remains trapped
8 in antiquated cannabis regulations, other nations
9 and scientific competitors, including the United
10 Kingdom, Canada, South Korea, Germany, and
11 Israel have modified their laws to allow for varying
12 degrees of cannabis legality and medical research.

13 **SEC. 3. PURPOSE.**

14 The President and Congress shall prepare the Fed-
15 eral Government for an inevitable and prompt end to Fed-
16 eral marihuana prohibition by establishing a commission
17 to advise on the development of a regulatory framework
18 with respect to marihuana regulation, including account-
19 ing for the different characteristics of communities, agen-
20 cies, and industries impacted by Federal marihuana prohi-
21 bition. Such regulatory framework shall be modeled after
22 Federal and State regulatory frameworks with respect to
23 alcohol.

1 **SEC. 4. COMMISSION ESTABLISHMENT AND MEMBERSHIP.**

2 (a) ESTABLISHMENT.—Not later than 30 days after
3 the date of the enactment of this Act, the Attorney Gen-
4 eral shall establish a commission to be known as the
5 “Commission on the Federal Regulation of Cannabis” (in
6 this Act referred to as the “Commission”) to study a plau-
7 sible and prompt pathway to cannabis regulation.

8 (b) DUTIES OF COMMISSION.—

9 (1) PROPOSAL OF MEASURES.—The Commis-
10 sion shall propose measures to alleviate and remedy
11 the:

12 (A) Impact of cannabis criminalization,
13 particularly on minority, low income, and vet-
14 eran communities.

15 (B) Lack of access to the financial service
16 sector for cannabis entrepreneurs and their af-
17 filiated industries.

18 (C) Lack of access to cannabis related re-
19 search, including research on medical uses and
20 the effects of impairment.

21 (D) Lack of access to medical cannabis
22 and research, particularly with respect to Fed-
23 eral agencies.

24 (E) Lack of medical cannabis training at
25 publicly funded medical training centers.

1 (F) Lack of consistent regulations for can-
 2 nabis product safety, use, and labeling require-
 3 ments.

4 (G) Lack of efficient cannabis revenue re-
 5 porting and collecting, including efficient and
 6 tenable Federal revenue frameworks.

7 (H) Lack of guidance for cannabis crop
 8 production, sale, intrastate, interstate, and
 9 international trade.

10 (I) Lack of guidance regarding the suc-
 11 cessful coexistence of individual hemp and can-
 12 nabis industries, including prevention of cross
 13 pollination of cannabis and hemp products.

14 (J) Any other barriers to Federal cannabis
 15 legalization identified by the commission.

16 (2) PUBLIC COMMENT; PUBLIC WITNESS; RE-
 17 PORTS.—

18 (A) COMMENT PERIOD.—Not later than 60
 19 days after the date of the enactment of this
 20 Act, the Commission shall solicit comment with
 21 respect to the regulation of cannabis from in-
 22 dustry stakeholders, criminal justice reform ad-
 23 vocates, substance use advocates, healthcare ex-
 24 perts, State cannabis regulators, and the De-

1 partment of Justice of each State or Tribal gov-
2 ernment.

3 (B) PUBLIC WITNESS HEARING.—

4 (i) IN GENERAL.—Not later than 180
5 days after the date of the enactment of
6 this Act, the Commission shall convene a
7 public witness hearing and solicit written
8 or verbal testimony from:

9 (I) Not less than two unique in-
10 dividuals or entities, who are not em-
11 ployed by the Federal Government,
12 and represent a State legal operation
13 that is licensed by a single State to
14 sell, produce, manufacture, process,
15 cultivate, or transport cannabis.

16 (II) Not less than two unique in-
17 dividuals or entities, who are not em-
18 ployed by the Federal Government,
19 and represent a State legal operation
20 with a multi-State presence that is li-
21 censed by such States to sell, produce,
22 manufacture, process, cultivate, or
23 transport cannabis.

24 (III) An individual who was con-
25 victed and incarcerated by the Federal

1 Government for a non-violent offense
2 with respect to cannabis.

3 (IV) An individual who was con-
4 victed and incarcerated by a State for
5 a non-violent offense with respect to
6 cannabis.

7 (ii) PUBLIC AVAILABILITY.—Written
8 and verbal testimony under clause (i) shall
9 be made publicly available in the final rec-
10 ommendations published under paragraph
11 (5).

12 (3) INITIAL REPORT AND RECOMMENDA-
13 TIONS.—Not later than 120 days after the date of
14 the enactment of this Act, the Commission shall
15 publish initial findings and recommendations pursu-
16 ant to section 4(b), including an identification of
17 barriers to and suggestions for regulating cannabis
18 in a way that is similar to the regulation of alcohol
19 with respect to the rights of State, Tribal, and the
20 Federal Government, on the internet website of the
21 Department of Justice.

22 (4) ADDITIONAL PUBLIC COMMENT PERIOD.—
23 Beginning 120 days after the date of the enactment
24 of this Act, the Commission shall solicit additional
25 public comment from stakeholders identified pursu-

1 ant to paragraph (2)(A) with respect to the initial
2 recommendations published pursuant to paragraph
3 (3).

4 (5) FINAL RECOMMENDATIONS.—Not later than
5 one year after the date of the enactment of this Act,
6 the Commission shall publish a report including
7 findings and recommendations pursuant to section
8 4(b), including an identification of barriers to and
9 suggestions for regulating cannabis in a way that is
10 similar to the regulation of alcohol, on the internet
11 website of the Department of Justice.

12 (c) MEMBERSHIP.—The Commission shall be com-
13 posed of the following members:

14 (1) The majority leader of the Senate shall ap-
15 point one member who is not employed by the Fed-
16 eral Government and was formerly incarcerated for
17 a non-violent crime with respect to cannabis use or
18 possession.

19 (2) The minority leader of the Senate shall ap-
20 point one member who is not employed by the Fed-
21 eral Government and is an expert in substance abuse
22 prevention.

23 (3) The majority leader of the House of Rep-
24 resentatives shall appoint one member, who is not

1 employed by the Federal Government, and is a med-
2 ical cannabis patient or advocate.

3 (4) The minority leader of the House of Rep-
4 resentatives shall appoint one member, who is not
5 employed by the Federal Government, and who is
6 medically licensed with substantial knowledge and
7 demonstrated research into cannabis use and med-
8 ical treatments.

9 (5) The Attorney General shall appoint one
10 member from the Department of Justice, who is an
11 expert in the history of cannabis criminalization and
12 the impact of criminalization on various commu-
13 nities, particularly minorities, medical patients, and
14 veterans.

15 (6) The Director of the Bureau of Alcohol, To-
16 bacco, Firearms and Explosives.

17 (7) The Director of the National Highway Traf-
18 fic Safety Administration.

19 (8) The Secretary of Education shall appoint
20 one member from the Department of Education who
21 is an expert in prevention of youth access to alcohol
22 and tobacco.

23 (9) The Director of Occupational Safety and
24 Health Administration.

1 (10) The Secretary of Agriculture shall appoint
2 one member from the Department of Agriculture
3 who is an expert on cannabis and hemp cultivation.

4 (11) The Commissioner of the Food and Drug
5 Administration.

6 (12) The Director of the Alcohol and Tobacco
7 Tax and Trade Bureau.

8 (13) The Commissioner of the Internal Revenue
9 Service.

10 (14) The United States Trade Representative.

11 (15) The Secretary of Commerce shall appoint
12 one member from the Department of Commerce who
13 is an expert on regulated goods in interstate com-
14 merce.

15 (16) The Secretary of Health and Human Serv-
16 ices shall appoint one member employed by the De-
17 partment of Health and Human Services who is an
18 expert on medical cannabis use and access.

19 (17) The Director of the National Institutes of
20 Health.

21 (18) The Secretary of the Veterans Affairs shall
22 appoint one member from the Department of Vet-
23 erans Affairs with knowledge of treatments for pain-
24 management and post-traumatic stress disorder and

1 for providing patients with affordable treatment op-
 2 tions.

3 (19) The Deputy Secretary of the Interior.

4 (20) The Administrator of the Small Business
 5 Administration shall appoint one member employed
 6 by the Small Business Administration who is an ex-
 7 pert in creating industry access for historically
 8 marginalized communities.

9 (21) The Director of the National Institute of
 10 Standards and Technology.

11 (22) One representative from a trade organiza-
 12 tion or other non-profit entity with members from
 13 multiple, highly regulated adult goods and consumer
 14 package goods, appointed by the Attorney General.

15 (23) Two representatives who have worked to
 16 develop two successful, separate, and unique State-
 17 level regulatory systems, appointed by the Attorney
 18 General.

19 (d) LEADERSHIP.—

20 (1) CHAIRPERSON.—The Chairperson shall be
 21 elected by the members of the Commission at the
 22 first meeting of the Commission.

23 (2) SECRETARY.—The Secretary shall be elect-
 24 ed by the members of the Commission at the first
 25 meeting of the Commission.

1 (3) VACANCIES.—A vacancy in the Chairperson
2 or Secretary position shall be filled in the manner in
3 which the original appointment was made by the re-
4 maining members of the Commission.

5 (e) MEMBERSHIP BY POLITICAL PARTY.—If after the
6 Commission is appointed there is a partisan imbalance of
7 Commission members, the congressional leaders of the po-
8 litical party with fewer members on the Commission shall
9 jointly name additional members to create partisan parity
10 on the Commission.

11 (f) APPOINTMENTS; REMOVALS; VACANCIES.—

12 (1) TIMING OF APPOINTMENTS.—Each initial
13 appointment to the Commission shall be made no
14 later than 30 days after the Commission is estab-
15 lished. If any appointing authorities fail to appoint
16 a member to the Commission, their appointment
17 shall be made by the Attorney General.

18 (2) REMOVAL.—A member of the Commission
19 may be removed from the Commission at any time
20 by the appointing authority should the member fail
21 to meet Commission attendance requirement pursu-
22 ant to subsection (g).

23 (3) VACANCIES.—A vacancy in the Commission
24 shall be filled in the manner in which the original

1 appointment was made prior to the date of the Com-
2 mission's next meeting.

3 (g) MEETING REQUIREMENTS.—

4 (1) FIRST MEETING.—The Commission shall
5 have its first meeting no later than 90 days after
6 the date of the enactment of this Act.

7 (2) QUARTERLY MEETINGS.—The Commission
8 shall meet quarterly. In addition to all quarterly
9 meetings, the Commission shall meet at other times
10 at the call of the Chairperson or as determined by
11 a majority of Commission members.

12 (3) QUORUM; RULE FOR VOTING ON FINAL AC-
13 TIONS.—A majority of the members of the Commis-
14 sion constitute a quorum, and an affirmative vote of
15 a majority of the members present is required to
16 issue recommendations.

17 (4) ATTENDANCE BY MEMBERS.—Members are
18 expected to attend all Commission meetings. In the
19 case of an absence, members are expected to report
20 to the Chairperson prior to the meeting and allow-
21 ance may be made for an absent member to partici-
22 pate remotely. Members will still be responsible for
23 fulfilling prior commitments, regardless of attend-
24 ance status. If a member is absent twice in a given
25 year, he or she will be reviewed by the Chairperson

1 and appointing authority and further action will be
2 considered, including removal and replacement on
3 the Commission.

4 (h) MINUTES.—Minutes shall be taken at each meet-
5 ing by the Secretary, or in that individual's absence, the
6 Chairperson shall select another Commission member to
7 take minutes during that absence.

8 (i) ADMINISTRATIVE REQUIREMENTS.—The Attorney
9 General shall provide staff and administrative support to
10 the Commission. All entities of the United States Govern-
11 ment shall provide information that is otherwise a public
12 record at the request of the Commission.

13 (j) NO RULEMAKING AUTHORITY.—The Commission
14 shall not have rulemaking authority.

15 (k) PROHIBITION OF COMPENSATION.—

16 (1) FEDERAL EMPLOYEES.—Members of the
17 Commission who are full-time officers or employees
18 of the United States may not receive additional pay,
19 allowances, or benefits by reason of their service on
20 the Commission.

21 (2) OTHER MEMBERS.—Members of the Com-
22 mission who are not full-time officers or employees
23 of the United States may not receive additional pay,
24 allowances, or benefits by reason of their service on
25 the Commission.

1 (l) DEFINITIONS.—In this Act:

2 (1) CANNABIS.—The term “cannabis” has the
3 meaning given the term “marihuana” in section 102
4 of the Controlled Substances Act (21 U.S.C. 802).

5 (2) STATE.—The term “State” includes the
6 District of Columbia, the Commonwealth of Puerto
7 Rico, and any territory or possession of the United
8 States.

9 (3) TRIBAL GOVERNMENT.—The term “Tribal
10 government” means the recognized governing body
11 of any Indian or Alaska Native tribe, band, nation,
12 pueblo, village, community, component band, or com-
13 ponent reservation, individually identified (including
14 parenthetically) in the list published most recently as
15 of the date of enactment of this paragraph pursuant
16 to section 104 of the Federally Recognized Indian
17 Tribe List Act of 1994 (25 U.S.C. 5131).

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