

Cannabis-Related Federal Legislation (2019)

Marijuana Legalization Legislation

Legislation	Regulation of Marijuana	Miscellaneous
<p>Marijuana Revenue and Regulation Act (S. 420/H.R. 1120)</p> <p>Sen. Ron Wyden (D-OR)/Rep. Earl Blumenauer (D-OR)</p> <p>Senate Summary</p> <p>See also Regulate Marijuana Like Alcohol Act (H.R. 420) (<i>similar</i>)</p> <p>Rep. Earl Blumenauer (D-OR)</p>	<p><i>Deschedules marijuana from Schedule I of the CSA</i> (subject to a limited exception that prohibits the sale/transportation of marijuana into any state or jurisdiction in which marijuana is illegal under the laws of such state or jurisdiction)</p> <p><i>Establishes regulatory structure for the production of marijuana that mirrors treatment of alcohol/tobacco under federal law (i.e., permitting, packaging/labeling, etc.)</i></p> <ul style="list-style-type: none"> • Requires marijuana production and export warehouse facilities to be bonded • Requires every marijuana producer, export warehouse proprietor, and importer to apply for/receive a permit from Treasury prior to commencing operations • Authorizes Treasury to require information reporting by any recipient of a permit • Imposes recordkeeping requirements on producers, importers, and export warehouse proprietors • Grants Treasury authority to regulate packaging and labeling of marijuana products (e.g., does <u>not</u> permit lottery features or indecent/immoral material to be included on the packaging of marijuana products) • Imposes civil and criminal penalties, including <i>subjecting retailers who sell more than 1 ounce of any marijuana product in a single transaction</i> to a \$10,000 fine, 5 years imprisonment, or both <p><i>Amends federal alcohol laws to render it unlawful for businesses importing, manufacturing, or selling marijuana to operate without a permit</i></p> <ul style="list-style-type: none"> • Requires businesses seeking to sell, offer/deliver for sale, contract to sell, ship, etc. marijuana in interstate or foreign commerce to obtain a permit issued by Treasury • Requires Treasury to issue permits unless it finds that the applicant is convicted of a “disqualifying offense” (e.g., certain felonies, misdemeanors); the applicant is not likely to commence operations within a reasonable period; or the operations are in violation of a particular state’s laws • Requires Treasury to make determinations as to the operations of the permitting process • Details the procedure for revocation, suspension, or refusal from Treasury to issue a permit <p><i>Implements changes to federal regulators with authority over marijuana</i></p> <ul style="list-style-type: none"> • Adds marijuana to several statutory references governing legal authorities relating to intoxicating liquors (e.g., the Wilson Act, the Webb-Kenyon Act, the Victims of Trafficking and Violence Protection Act of 2000) • <i>Grants the FDA the “same authorities with respect to marijuana as [it] has with respect to alcohol”</i> 	<p><i>Taxation. Mirrors tax treatment of alcohol/tobacco under federal law</i></p> <ul style="list-style-type: none"> • Imposes an excise tax on marijuana products, escalating to 25% over five years • Imposes a separate tax on marijuana derivatives that is dependent on the THC content • Imposes an occupational tax of \$1,000 per year on each marijuana production facility and each marijuana export warehouse • Exempts certain individuals/entities from the excise tax (e.g., when marijuana is used exclusively in scientific research by a laboratory) <p><i>Regulatory Redesignations.</i></p> <ul style="list-style-type: none"> • Redesignates the Bureau of Alcohol, Tobacco, Firearms and Explosives to be the <i>Bureau of Alcohol, Tobacco, Marijuana, Firearms and Explosives</i> • Redesignates the Alcohol and Tobacco Tax and Trade Bureau as the <i>Alcohol, Tobacco and Marijuana Tax and Trade Bureau</i> <p><i>Funding.</i> Authorizes \$10 million to be appropriated for each of the 2019 and 2020 fiscal years</p> <p><i>Studies, Reviews, Reports.</i></p> <ul style="list-style-type: none"> • Requires Treasury to conduct a study concerning the characteristics of the marijuana industry (e.g., the number of persons operating marijuana production facilities or export warehouses, the volume of sales, the amount of tax collected annually, areas of evasion, etc.) • Requires the Comptroller General to review federal laws, regulations, and policies on marijuana to determine if any changes are needed <p><i>Trade Negotiation.</i> Requires the United States to seek removal of barriers to trade in marijuana, marijuana derivatives, and marijuana</p>

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	<ul style="list-style-type: none"> Transfers jurisdiction for marijuana enforcement from the DEA to the Bureau of Alcohol, Tobacco, Marijuana, Firearms and Explosives (as redesignated) <p><i>Subjects marijuana producers, importers, and wholesalers to the same advertising restrictions as those imposed on alcohol</i> (i.e., truth-in-advertising and fair marketplace conduct)</p>	<p>products in trade negotiations</p>
<p>Marijuana Justice Act of 2019 (S. 597/H.R. 1456)</p> <p>Sen. Cory Booker (D-NJ)/Rep. Barbara Lee (D-CA)</p> <p><i>See also</i> excerpts from the Next Step Act of 2019 (S. 697/H.R. 1893) (<i>similar</i>)</p> <p>Rep. Bonnie Watson Coleman (D-NJ)</p>	<p><i>Deschedules marijuana and THC from Schedule I of the CSA</i> and makes conforming amendments to remove such references throughout the CSA</p> <p>Removes references to marijuana with respect to specific prohibitions against and penalties for intentionally importing or exporting a controlled substance</p>	<p><i>Criminal/Social Justice Reforms.</i></p> <ul style="list-style-type: none"> Incentivizes states to change their marijuana laws if they have had a disproportionate effect on low-income individuals and/or people of color (i.e., renders such states ineligible for federal funds for the construction/staffing of prisons/jails <u>and</u> subjects them to a 10% reduction (at most) in funds that would otherwise be allocated to the state for law enforcement-related grants) Requires federal courts to retroactively expunge convictions for marijuana use or possession Authorizes individuals aggrieved by a disproportionate arrest rate/incarceration rate to bring a civil action in district court Establishes a Community Reinvestment Fund to reinvest in communities most affected by the war on drugs <u>and</u> appropriates \$500 million annually through fiscal year 2042 to the Fund
<p>Ending Federal Marijuana Prohibition Act of 2019 (H.R. 1588)</p> <p>Rep. Tulsi Gabbard (D-HI)</p>	<p><i>Deschedules marijuana and THC from Schedule I of the CSA</i> and makes conforming amendments to remove such references throughout the CSA</p>	<ul style="list-style-type: none"> Retains the prohibition on shipping or transporting marijuana “in any matter or by any means” from one state to another when the marijuana is intended to be received, possessed, sold, or used in violation of any laws of that jurisdiction Penalizes those who violate the prohibition on shipping or transporting marijuana with a fine, imprisonment, or both

States' Rights Legislation

Legislation	Treatment of State Law	Miscellaneous
<p>Strengthening the Tenth Amendment Through Entrusting States (STATES) Act (S. 1028/H.R. 2093)</p> <p>Sen. Elizabeth Warren (D-MA)/Rep. Earl Blumenauer (D-OR)</p> <p>Senate Summary</p>	<p><i>Amends the CSA so that its provisions no longer apply to any person acting in compliance with state or tribal law relating to the “manufacture, production, possession, distribution, dispensation, administration, or delivery” of marijuana</i></p> <p>Retains some prohibitions, including those on:</p> <ul style="list-style-type: none"> • Distributing marijuana at transportation safety facilities (e.g., safety rest areas and truck stops), though it permits a person to possess or possess with intent to distribute at such facilities, so long as they are operating in compliance with state law (e.g., a person possessing marijuana can get gas without violating the CSA) • Endangering human life while illegally manufacturing controlled substances • Distributing to persons under 21 (unless it is for medical purposes) • Violating the CSA with respect to any other controlled substance • Knowing or intentional violations of state law • Employing or hiring a person under 18 to work in marijuana establishments 	<p><i>GAO Study.</i> Requires GAO to conduct a study on the effects of marijuana legalization on traffic safety, including a detailed assessment of:</p> <ul style="list-style-type: none"> • Traffic crashes, fatalities, and injuries in states that have legalized marijuana use (including whether states are able to accurately evaluate marijuana impairment in those accidents) • Actions taken by states to address marijuana-impaired driving; • Testing standards used by the states to evaluate marijuana impairment in traffic crashes, fatalities, and injuries; and • Federal traffic safety initiatives aimed at assisting states that have legalized marijuana.
<p>Respect States’ and Citizens’ Rights Act of 2019 (H.R. 2012)</p> <p>Rep. Diana DeGette (D-CO)</p>	<p><i>Amends the CSA to exempt states with legal marijuana frameworks from federal intervention</i> (i.e., provides that no provision of the CSA should be construed as “indicating an intent on the part of Congress to occupy the field in which that provision operates . . . to the exclusion of state law on the same subject matter” or “preempting any such state law”)</p>	
<p>Responsibly Addressing the Marijuana Policy Gap Act (S. 421/H.R. 1119)</p> <p>Sen. Ron Wyden (D-OR)/Rep. Earl Blumenauer (D-OR)</p> <p>Senate Summary</p>	<p><i>Exempts persons acting in compliance with state marijuana laws from penalties under the CSA,</i> specifically as it relates to the production, possession, distribution, dispensation, administration, laboratory testing, or delivery of marijuana <u>or</u> the provision of ancillary services related to such activities (e.g., legal representation, payment processing, advertising, etc.)</p> <p><i>Addresses banking difficulties faced by marijuana businesses operating legally under state law</i></p> <ul style="list-style-type: none"> • Prohibits federal banking regulators from: <ul style="list-style-type: none"> - Terminating/limiting the deposit insurance of a depository institution solely because it provides/has provided financial services to a marijuana-related business; - Prohibiting, penalizing, or otherwise discouraging a depository institution from providing financial services to a marijuana-related business; - Recommending, incentivizing, or encouraging a depository institution to downgrade or cancel 	<p><i>Taxation. Amends Section 280E of the Internal Revenue Code</i> to allow deductions and credits related to expenditures made in connection with marijuana sales that are conducted in compliance with state law</p> <p><i>Drug Testing.</i> Prohibits agencies from requiring the submission of marijuana drug tests/using the results of marijuana drug tests in determining eligibility for civil service employment for individuals who reside in states that have legalized marijuana</p> <p><i>Advertising.</i> Facilitates print and broadcast advertising of marijuana-related activity that is legal under state law</p>

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	<p>the financial services offered to marijuana business owners, operators, and employees;</p> <ul style="list-style-type: none"> - Taking supervisory action on a loan to marijuana business owners or property owners lending to marijuana businesses; and - Denying depository institutions Master Accounts with the Federal Reserve <ul style="list-style-type: none"> • Grants depository institutions that provide financial services to marijuana-related businesses immunity from federal criminal prosecution or investigation for providing those services (includes similar provisions related to criminal penalties and forfeiture) • Removes the requirement that depository institutions file marijuana-limited <i>Suspicious Activity Reports</i> (as required by current FinCEN guidance) if certain circumstances are present (e.g., if the depository institution reasonably believes that the marijuana business does not implicate the Cole Memorandum priorities, etc.), but still requires them to keep internal records documenting the marijuana-related transactions (which will be accessible to regulators investigating suspicious activity) • Provides bankruptcy relief for marijuana businesses that are legal under state law 	<p>Contains provisions specific to medical marijuana research and access <u>and</u> offers a series of individual protections (e.g., expungement of criminal records in limited circumstances, amending eligibility requirements for federal educational financial aid, etc.)</p>
<p>The Sensible Enforcement of Cannabis Act of 2019 (H.R. 493) Rep. Lou Correa (D-CA)</p>	<p><i>Formalizes the Cole Memorandum</i></p> <p>Prohibits the Attorney General from prosecuting any conduct that:</p> <ul style="list-style-type: none"> • Concerns marijuana for medical or recreational use; <u>and</u> • Is authorized by the laws of the state involved <p><i>Exceptions.</i> Permits the Attorney General to undertake enforcement actions to prevent:</p> <ul style="list-style-type: none"> • Distribution to minors • Revenue from marijuana sales from going to criminal enterprises, gangs, and cartels • Diversion of marijuana across state lines • State-authorized marijuana activity from being used as a cover for the trafficking of other illegal drugs • Violence and the use of firearms in the cultivation and distribution of marijuana • Drugged driving/other adverse public health consequences associated with marijuana use • The growing of marijuana on public lands • Possession or use on federal property 	
<p>Restraining Excessive Federal Enforcement & Regulations (REFER) of Cannabis Act (H.R. 1455) Rep. Barbara Lee (D-CA)</p>	<p><i>Prohibits any federal department or agency from using congressionally appropriated funds to interfere with state or local cannabis laws.</i> Specifically prohibits the use of such funds to:</p> <ul style="list-style-type: none"> • Prevent a state from implementing/maintaining laws that authorize the use, distribution, possession, or cultivation of cannabis • Bring claims against an individual, business, or property that is involved in the cultivation, 	

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	distribution, possession, dispensation, or use of cannabis in accordance with state law <ul style="list-style-type: none"> • Penalize a financial institution legally operating under the law of the state in which it is located solely because it provides financial services to a cannabis-related business 	

Piecemeal Legalization Legislation

Legislation	Overview
<p>Secure and Fair Enforcement (SAFE) Banking Act of 2019 (S. 1200/H.R. 1595)</p> <p>Sen. Jeff Merkley (D-OR)/Rep. Ed Perlmutter (D-CO)</p> <p><i>Reported by the House Financial Services Committee (45-15) – awaiting text as amended</i></p>	<p><i>Addresses banking difficulties faced by cannabis businesses operating legally under state law and service providers (e.g., banks, insurers, etc.) serving such businesses</i></p> <ul style="list-style-type: none"> • Prohibits federal banking regulators from, among other things: <ul style="list-style-type: none"> - Terminating/limiting the deposit insurance of a depository institution solely because it provides/has provided financial services to a cannabis-related legitimate business or service provider; - Prohibiting, penalizing, or otherwise discouraging a depository institution from providing financial services to a cannabis-related legitimate business or service provider; - Recommending, incentivizing, or encouraging a depository institution to downgrade or cancel the financial services offered to cannabis business owners, operators, and employees; - Taking supervisory action on a loan to cannabis business owners or property owners leasing to marijuana businesses or service providers • States that the proceeds from a transaction conducted by a cannabis-related legitimate business or service provider will not be considered proceeds from an unlawful activity solely because the transaction was conducted by a cannabis-related legitimate business or service provider, as applicable • Provides that depository institutions, entities providing financial services for/in association with depository institutions, or insurers that provide financial services to marijuana-related businesses will not be found liable pursuant to any federal law solely for providing those services or for investing income derived from such services (includes similar provisions related to forfeiture <i>and Senate version contains similar protections for federal reserve banks</i>) • Does <u>not</u> require a depository institution, entity performing a financial service for/in association with a depository institution, or insurer to provide financial services to a cannabis-related legitimate business or service provider • Requires financial institutions to comply with guidance issued by FinCEN when filing <i>Suspicious Activity Reports</i> related to cannabis-related legitimate businesses (also requires Treasury to ensure that FinCEN’s guidance is (1) consistent with the purpose and intent of the SAFE Banking Act and (2) does not inhibit the provision of financial services to cannabis-related legitimate businesses in states where such activity is legal) • Requires the Financial Institutions Examination Council to develop guidance and examination procedures for depository institutions that provide financial services to cannabis-related legitimate businesses • Requires federal banking regulators to issue an annual report on diversity and inclusion in cannabis-related businesses and requires GAO to study (1) barriers to marketplace entry and access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses and (2) the <i>effectiveness of Suspicious Activity Reports (Senate version only)</i>
<p>Small Business Tax Equity Act (S. 422/H.R. 1118)</p>	<p><i>Amends Section 280E of the Internal Revenue Code</i> to allow deductions and credits related to expenditures made in connection with marijuana sales that are conducted in compliance with state law</p>

Legislation	Overview
Sen. Ron Wyden (D-OR)/Rep. Earl Blumenauer (D-OR)	
<p> Fairness in Federal Drug Testing Under State Laws Act (H.R. 1687) Rep. Charlie Crist (D-FL) House Summary </p>	<p> <i>Prohibits a positive marijuana drug test from being used as the <u>sole</u> reason for denying/terminating federal employment for civilian positions at executive branch agencies if the individual is complying with the marijuana laws of their state of residence</i> (and, in the case of an individual whose use of marijuana was for medical purposes, if the individual is able to provide documentation attesting to the lawful nature of such use under state law) </p> <ul style="list-style-type: none"> • Extends <u>only</u> to an individual’s past, private use of cannabis • Does <u>not</u> prohibit probable cause testing (i.e., if an individual is believed to be impaired at work) • Does <u>not</u> apply to individuals occupying or seeking a position requiring a top-secret clearance