

# **THE PATH FORWARD**

## **RETHINKING FEDERAL MARIJUANA POLICY**



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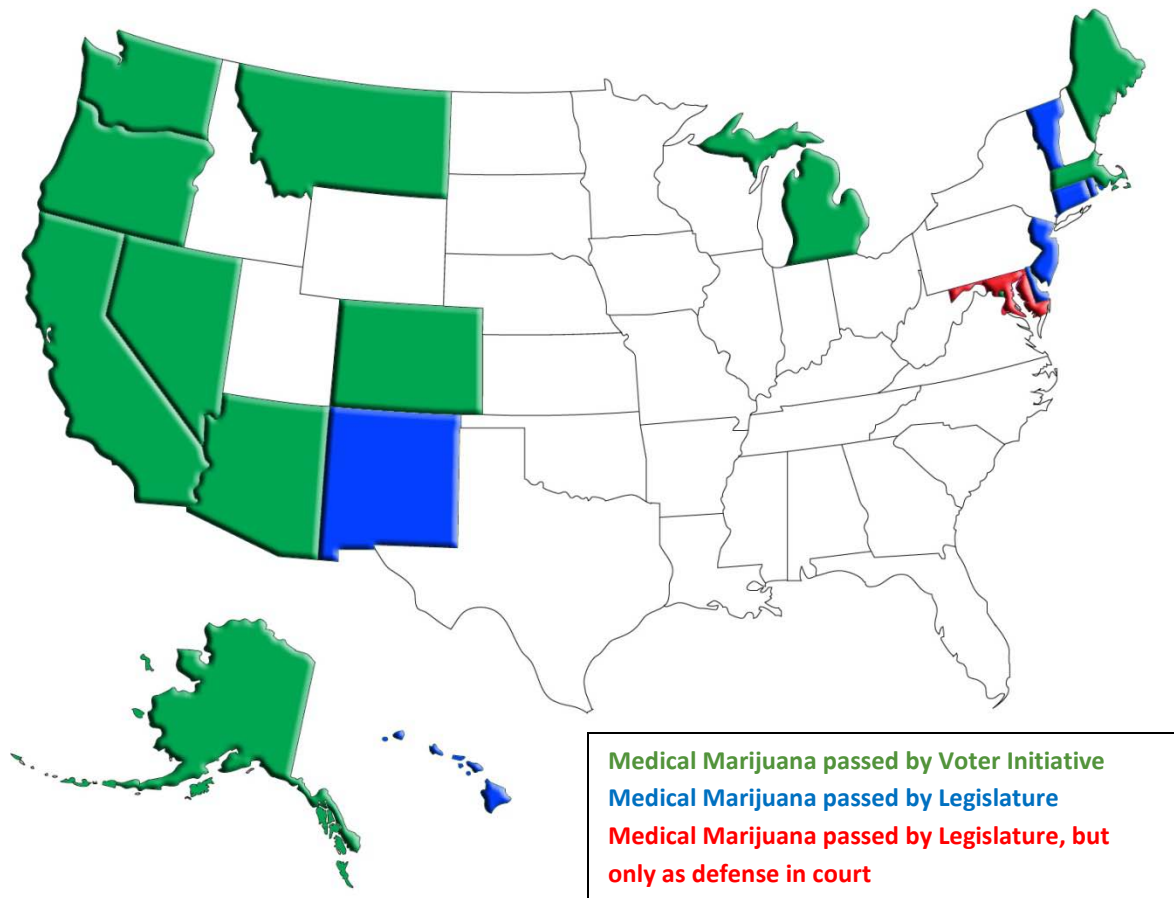
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## Executive Summary

After decades of failed policies and tremors of varying intensity, the tectonic plates of marijuana regulation abruptly shifted November 2012 as the citizens of Washington and Colorado voted to legalize the drug for personal, recreational use.

Smaller, earlier quakes first began in Oregon in 1973, when the state legislature passed legislation that made the penalty for possession of small amounts of marijuana equivalent to that of a traffic ticket.<sup>1</sup> In the 40 years that followed, 15 jurisdictions have developed similar policies.<sup>2</sup>



The next upheaval was the legalization of medical marijuana by states, starting with California in 1996.<sup>3</sup> The therapeutic qualities of marijuana have since proved persuasive in states across the political spectrum. The movement to allow medical marijuana has gained more momentum and legitimacy, with a total of 18 states and the District of Columbia currently allowing this application.<sup>4</sup>

These developments have played out against the backdrop of the least effective, and arguably, most questionable front in America's 'War on Drugs.' Marijuana has been classified as a Schedule I Controlled Substance for decades – meaning that it has a “high potential for abuse” and possesses “no currently accepted medical use in treatment in the

United States.”<sup>5</sup> Other drugs in this category include heroin and LSD. Yet an estimated 18 million Americans have used marijuana in the past month, and over 40 percent of all Americans over the age of 12 have tried it at least once.<sup>67</sup>

Millions of people have been caught up in the justice system for marijuana offenses. Over 660,000 were arrested for possession in 2011, which represents the most recent data.<sup>8</sup> Too often people are serving time in jail for using a drug that nearly half the nation’s population feels should be legal for recreational purposes and 70 percent feel should be legal for medicinal purposes.<sup>910</sup>

The rapid adoption of medical marijuana laws has given hundreds of thousands of people access to marijuana for everything from suppressing the nausea associated with chemotherapy to mitigating the effects of multiple sclerosis and chronic pain.<sup>11</sup> This situation has created a gray area, where medical marijuana enterprises are operating in a patchwork of conflicting state, local, and federal regulations. Common sense suggests that these enterprises have the potential for abuse and other criminal activity. Many people are likely using medical marijuana laws to access marijuana for other purposes. Simultaneously, many well-intentioned business people are also entering these emerging industries, often in compliance with state law, only to find themselves at risk of lengthy federal prison sentences.

Despite its widespread use, all types of marijuana continue to be illegal under federal law. While President Obama has declared that his administration has “bigger fish to fry” in regard to cracking down on legal state usage, far too many United States Attorneys and drug enforcement personnel are still ‘frying those little fish.’<sup>12</sup> Only Congress has the power to unravel this mess. It is past time it does so.

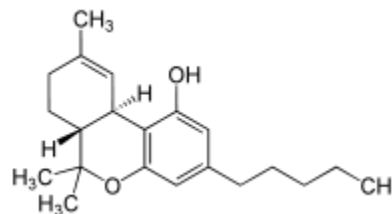
According to the 2010 Census, just over 106 million people live in jurisdictions where their respective government (usually with voter approval) has decided that some aspect of marijuana use should be legally permitted.<sup>13</sup> In a time of transition for marijuana policy, the federal policy framework regarding marijuana use should be addressed to reduce confusion, uncertainty, and conflicting government action. Maintaining the status quo creates an inconsistent legal environment with law enforcement resources wasted and potential tax revenues lost.

No one should minimize the potential harmful effects of marijuana. This would be a better world without widespread abuse of substances that can damage health and quality of life, marijuana included. The challenge is that as we seek to protect the health and safety of Americans through policies and laws, we must acknowledge when existing mechanisms don’t work, go too far, or cause more harm than good. This is the case with the federal government’s current approach to marijuana.

This report is a summary of the history and facts surrounding marijuana, its use and regulation, as well as a plan for a common sense path forward. The goal is to minimize conflict and deal with the inevitable transition of marijuana policy – a transition already well under way.

## What is Marijuana?

Marijuana is the dried mixture of leaves, flowers, stems, and seeds from the hemp plant, Cannabis. It can be consumed as a psychoactive drug or as medicine. The primary psychoactive ingredient is tetrahydrocannabinol (THC).<sup>14</sup> Several additional biologically and therapeutically active – but not psychoactive – compounds are also available in the plant.<sup>15</sup> As a drug, the main effects of marijuana vary, but it is most often sought after for its euphoric and anti-anxiety properties. Medicinally, cannabis can be used to treat pain, lack of appetite, nausea associated with disease and medication, and many other conditions.



The hemp plant has many industrial uses: it can be found in products like rope, cloth, oil, wax, and fuel. It produces negligible amounts of THC, and does not have psychoactive properties.

## A Brief History of Marijuana in the United States

The hemp plant's economic importance in America dates back to the 17<sup>th</sup> century before the birth of our nation, where it was used in the production of rope, sails, and clothing. Domestic production for industrial purposes flourished until after the Civil War. In the late 19<sup>th</sup> century, marijuana was introduced into western medicine and sold openly in pharmacies as a sedative and to reduce inflammation and muscle spasms.

With the turn of the 20<sup>th</sup> century, marijuana began to be used as a recreational drug in the United States. During Prohibition and the Great Depression, public and government concern regarding the potential harms of marijuana began to grow as a series of anecdotal nonscientific reports linked the use of marijuana with violence, insanity, crime, and social deviance.



Such ideas have long been discredited, but by 1931, Cannabis was outlawed in 29 states. In 1937, Congress passed the Marijuana Tax Act that restricted possession of the drug to individuals who paid an excise tax on certain medical and industrial uses. By 1942, Cannabis was removed from the U.S. Pharmacopoeia, the nation's official list of medicines.

Congress passed the Boggs Act in 1951, listing Cannabis as a narcotic and establishing minimum sentences for marijuana-related offenses. A first-offense marijuana possession carried a minimum sentence of two to ten years and a fine of up to \$20,000. In spite of these harsh laws, marijuana was widely used and heavily associated with the counterculture movement during the 1960s.

In 1970, Congress passed the Controlled Substances Act, classifying marijuana as a Schedule I drug, the same schedule given to drugs like heroin and LSD, but not cocaine or amphetamines. At the same time, however, Congress repealed many of the most severe minimum drug sentencing laws, recognizing their failure to eliminate the widespread marijuana use throughout the 1960s.

Following the recommendations of the bipartisan Shafer Commission in the early 1970s, 16 states – beginning with Oregon - decriminalized the personal use of marijuana, treating first-time possession of a small amount more like a traffic offense than a crime. Today, Alaska, California, Colorado, Connecticut, Maine, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio, Rhode Island, and Washington have passed similar laws.

The 1980s marked a return to a more aggressive approach to marijuana. New laws elevated federal penalties for marijuana possession and distribution with 100 marijuana plants carrying the same potential penalty as possession of 100 grams of heroin. Around the same time, however, the federal government initiated the Compassionate Investigational New Drug program which allowed a small number of individuals to receive medical marijuana from the federal government. The program began in 1976 and accepted its last new patient in 1991. Four patients remain grandfathered in and receive approximately eight to nine ounces of medical marijuana each month.

In 1996, California voters passed Proposition 215, becoming the first state to allow the sale and medical use of marijuana for patients with AIDS, cancer, and other diseases.

Since that time, 18 additional jurisdictions have adopted medical marijuana programs, with twelve having done so through voter initiatives, most recently including Massachusetts in November 2012. All medical marijuana laws remove state criminal penalties for certain categories of conduct. Each state's law is structured differently and all face challenges associated both with how to best control and regulate distribution and access, and the fact that marijuana remains illegal under federal law.

These challenges were compounded in November 2012, when voters in Colorado and Washington passed initiatives that legalized the recreational use of marijuana. Both initiatives were approved with just over 55% of the vote.<sup>16</sup>

## The Facts about Marijuana

- Marijuana is the third most popular recreational drug in America, behind only alcohol and tobacco.
- Over 40 percent of Americans over the age of 12 have used marijuana at some point in their life, either for recreation or medicinal purposes.<sup>17</sup>
- Approximately 18 million Americans have used marijuana within the last month.<sup>18</sup>
- Marijuana remains illegal at the federal level, which makes it the most common illegal drug used in the United States.
- Marijuana is less addictive than both alcohol and tobacco.<sup>19</sup>
- Other drugs that are currently legal, such as alcohol, tobacco, and prescription drugs, have significant negative public health effects:
  - Approximately 80,000 people a year die related to excessive alcohol use.<sup>20</sup>
  - Over 10,000 people a year are killed in alcohol-impaired driving accidents.<sup>21</sup>
  - Alcohol can lead to cirrhosis of the liver, general poor health, and antisocial and often illegal behavior that includes violence.<sup>22</sup>
  - More than 400,000 deaths each year are attributed to smoking tobacco.<sup>23</sup>
  - Since 2003, prescription drug overdoses have killed more people than heroin and cocaine combined, and their abuse is now America's fastest growing drug problem.<sup>24</sup>



The facts suggest that U.S. policies on marijuana are of questionable value as we seek to protect the health and safety of Americans.

## The Costs of the War on Marijuana

The war on marijuana is waged at a tremendous cost of money and impact on human lives. Over 660,000 people in 2011 were arrested for marijuana possession.<sup>25</sup> It has been estimated that enforcement of federal marijuana laws (including incarceration) costs a minimum of \$5.5 billion dollars each year.<sup>26</sup>

Such costs are not evenly distributed across racial and economic lines. As is the case for the entire war on drugs, the war on marijuana has had an overwhelmingly disproportionate impact on communities of color. According to the National Association for the Advancement of Colored People (NAACP), African Americans are 13 times more likely to go to jail for the same drug-related offense than their white counterparts.<sup>27</sup>

There are also dramatic costs – financial and personal – associated with the black market for marijuana in the United States and Latin America. While estimates vary greatly, a recent

study by the Mexican Institute for Competitiveness estimates that between 40 and 70 percent of marijuana consumed in the United States is grown in Mexico, providing drug cartel coffers with at least \$2 billion annually.<sup>28</sup> Another estimate suggests the newly legal markets in Washington and Colorado alone could cost the cartels over a billion dollars per year.<sup>29</sup>

While marijuana only comprises a small fraction of the overall drug trade coming from Mexico, legalization in the United States will directly undercut these cartels. It could bring greater stability to the region and reduce the violence that has resulted in 60,000 drug trade-related deaths since 2006. It should be noted that U.S. taxpayers have given Mexico \$1.3 billion in military and judicial aid over the past seven years to combat drug cartels.<sup>30</sup>

## Public Opinion Shifts on Marijuana

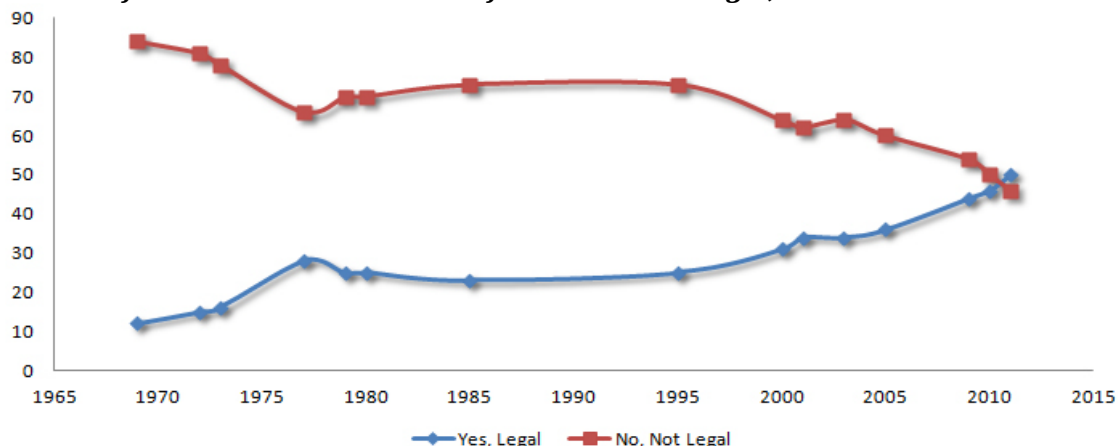
While the United States spends billions of dollars incarcerating citizens and damaging lives, nearly half of the American public believes that marijuana should be legalized. This figure has steadily risen over the last 30 years, and 2011 marked the first time when a majority of Americans believed marijuana should be legalized. Among young Americans the numbers are even more overwhelmingly in support of changing policy.<sup>31</sup>

The American public demonstrates even stronger support for the use of medical marijuana. When polled, 70% favor allowing doctors to prescribe marijuana for reducing pain and suffering.<sup>32</sup>

Most telling: following the passage of legalization measures, recent surveys also suggest only 34% of Americans believe that federal marijuana laws should be enforced against people acting in compliance with state law.<sup>33</sup>

Quite simply, the American public is far ahead of the federal government on marijuana regulation and policy. It is time for federal law to reflect this reality.

### *Percent of Americans who think marijuana should be legal, over time.*





## Medical Marijuana

Medical marijuana is used to treat nausea, loss of appetite, muscle tension or spasms, chronic pain, and insomnia. It has often been used to treat these symptoms in patients suffering from cancer and the side effects of chemotherapy, HIV, and other serious conditions.

The first medical marijuana law in the United States was passed in California by voter initiative in 1996.

Since then, 18 additional jurisdictions have enacted similar laws that allow individuals recommended by a physician to be exempt from state prosecution and civil proceedings related to marijuana offenses. Estimates vary from a low of 730,000 to well over one million medical marijuana patients nationwide, treated for a wide variety of ailments.<sup>3435</sup>

Twelve of these laws were enacted by voter initiative. Many limit the amount a patient can possess at any one time, and specify how they can obtain medical marijuana. Some states allow for large commercial or not for profit dispensaries, while others allow patients to grow marijuana themselves or designate a grower to supply their medicine.



To protect against arrest and prosecution, most states issue medical marijuana cards and have some form of patient registry.

States vary in the regulation and administration of their medical marijuana laws. In California, commercial dispensaries are allowed and regulated loosely on the local level, rather than the state level. There is no mandatory central patient registry, so it is impossible to ascertain how many patients purchase marijuana or for what they are using it.<sup>36</sup> In contrast, in Colorado, dispensaries are heavily regulated by the state. Owners must undergo criminal background checks and subject their accounting to regular inspection for any ties to criminal activity and facilities must have continuous video monitoring.<sup>37</sup>

Some states do not allow dispensaries at all, but specify conditions for how a patient may obtain marijuana. Oregon, for example, is home to over 50,000 medical marijuana patients, each of whom can grow up to six marijuana plants or designate a grower to do so.<sup>38</sup> Any grower is allowed to grow marijuana for up to four people. Such small-scale operations have the advantage of not running afoul of the federal 100-plant sentencing and enforcement trigger. However, such an approach poses a greater challenge for state monitoring and regulation. In addition, the system is confusing, and finding a grower can be difficult, forcing many patients onto the black market.

In addition to the 19 jurisdictions, Maryland allows the use of medical marijuana as defense against prosecution of marijuana possession, but does not provide a means for patients to actually obtain the drug.

The following chart outlines which states allow for medical marijuana, how and when these laws passed, if dispensaries are allowed, if a central registry system exists and if the state also allows for recreational use of marijuana.<sup>39</sup>

State	Year Passed	Passed By	Dispensaries	Central Patient Registry	Recreational Use
Alaska	1998	Voter Initiative		✓	
Arizona	2010	Voter Initiative	✓	✓	
California	1996	Voter Initiative	✓	✓**	
Colorado	2000	Voter Initiative	✓	✓	✓
Connecticut	2012	Legislature	✓	✓	
Delaware	2011	Legislature	✓	✓	
District of Columbia	1998	Voter Initiative	✓	✓	
Hawaii	2000	Legislature		✓	
Maine	1999	Voter Initiative	✓	✓**	
Maryland		Legislature*			
Massachusetts	2012	Voter Initiative	✓	✓	
Michigan	2008	Voter Initiative		✓	
Montana	2004	Voter Initiative		✓	
Nevada	1998	Voter Initiative		✓	
New Jersey	2010	Legislature	✓	✓	
New Mexico	2007	Legislature		✓	
Oregon	1998	Voter Initiative		✓	
Rhode Island	2006	Legislature	✓	✓	
Vermont	2004	Legislature	✓	✓	
Washington	1998	Voter Initiative			✓

\* Maryland's law only allows for medical marijuana use as a legal defense in court.

\*\* The Patient Registry in California and Maine is voluntary.

## The Federal Policy on Medical Marijuana

In 2009, the Obama Administration began to deviate from previous strict enforcement policies, despite the fact that medical marijuana remains illegal under federal law. The Department of Justice (DOJ) sent a memo to federal prosecutors, encouraging them to deprioritize prosecuting individuals “whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana,” and instead focus on providers who violate both state and federal law, and those who operate medical facilities as a front for criminal activity. This letter is commonly referred to as the “Ogden Memo.”<sup>40</sup> As a result, many states moved forward with enacting medical marijuana laws and establishing systems for regulating production and distribution.



Since 2011, however, the Department of Justice (DOJ) further clarified its policy with the “Cole Memo,” stating that laissez-faire approval does not apply to large-scale commercial operations that cultivate, sell, or distribute marijuana, regardless of whether or not they are in compliance with state law.<sup>41</sup> DOJ claims that many of these facilities were operating as fronts for criminal activity which state regulation has been insufficient to prevent. The federal government has

since continued to enforce federal law relating to medical marijuana, and facilities across the country have been raided by the Drug Enforcement Administration (DEA) or otherwise targeted by the DOJ.<sup>42</sup> At the time of this report, a recent national example was a California case on the front page of the New York Times on January 14, 2013.<sup>43</sup>

Also of note, in 1998, the District of Columbia approved a medical marijuana measure. However, Congress responded by passing the “Barr Amendment,” which prohibited DC from implementing this measure, until the Barr Amendment was dropped in 2009.

## Legalization of Personal, Recreational Use of Marijuana

In November 2012, Colorado and Washington became the first states to move the conversation beyond medical marijuana when voters in both states passed initiatives legalizing marijuana under state law.

In Colorado, voters passed Amendment 64 with 55.3% of the vote, making it legal for someone 21 years or older to possess up to one ounce of marijuana or grow up to six plants for personal use.<sup>44</sup> Marijuana facilities will be authorized to grow and sell marijuana with state licenses. Taxes are limited to 15% of the wholesale price of marijuana through 2017.<sup>45</sup>

In Washington, voters passed Initiative 502, with 55.7% of the vote, making it legal for an individual 21 years or older to possess up to one ounce of marijuana. The state will license producers, processors, and retailers, with a 25% tax imposed at each transaction point in the market: when the grower sells it to the processor, when the processor sells it to the retailer and when the retailer sells it to the customer.<sup>46</sup>

## Challenges

### Conflict between state and federal law

The federal government continues to regard marijuana as an illegal controlled substance despite 19 jurisdictions allowing medical marijuana, two states with legalized recreational use, and an increasing number of Americans who support legalization. There are a number of consequences associated with this conflict:

#### Enforcement

The federal government must choose the degree to which it will enforce federal law in states that have legalized marijuana under state law. Strict enforcement will become increasingly difficult and costly as more states legalize marijuana.



Additionally, the current system creates uncertainty that is only likely to grow without major reform of marijuana laws in Congress. The presence of a black market for marijuana poses additional challenges to the federal government as it seeks to enforce existing drug policies, raiding dispensaries and operations that the government claims are tied to trafficking but that also sell into the medical market. Such enforcement limits the

accessibility of medical marijuana for legitimate customers, and creates barriers to entry for those who seek to grow and sell marijuana legally.

### **Federal Tax Challenges**

Under section 280E of the federal tax code, because marijuana is an illegal substance, businesses that grow, sell or transport marijuana are not allowed to deduct their expenses on their federal taxes, creating a significant financial burden. 280E applies to both Schedule I and Schedule II substances under the Controlled Substances Act.<sup>47</sup>

Complicating matters, many state tax systems link to provisions in the federal tax code. In these situations, even where medical marijuana is legal, business expenses cannot be deducted from state taxes.

### **Banking and Business Challenges**

Federal banking provisions make it very difficult for any business dealing with marijuana to obtain a loan or register an account with a bank. Banks will not risk federal prosecution. Therefore, many medical marijuana businesses have difficulty accessing capital and are forced to operate on a cash-only basis, which raises the risks for money laundering, tax evasion, robbery, and other crimes.

In addition, insurance companies and security firms often cite federal laws as the reason they cannot do business with the marijuana industry.

### **Medical Marijuana Research**

Following the 1996 legalization of medical marijuana in California, a National Institutes of Health panel of experts called for additional studies to properly evaluate marijuana's medical potential.<sup>48</sup>



Yet, because of marijuana's classification as a Schedule I substance, the research data collected on specific medicinal effects of marijuana remains very limited. Researchers wishing to obtain marijuana

for medical research must obtain a special license from the Drug Enforcement Administration and apply for access to the supply overseen by the National Institutes of Drug Abuse (NIDA). NIDA's mission is "to lead the nation in bringing the power of science to bear on drug abuse and addiction," and is decidedly not

focused on medical research.<sup>49</sup> Permission to obtain marijuana for medical research has been quite difficult.<sup>50</sup> Thus while opponents of medical marijuana research often point to the absence of peer-reviewed studies that establish the medical benefits of marijuana, the absence of such studies is more directly a result of the extreme legal and funding difficulties surrounding conducting such a scientific study.

## Hemp

Hemp is widely used in a variety of consumer products in the United States. Total sales of food and body-care products exceeded \$43 million in 2011, and advocacy groups estimate that the total retail market for hemp products in the US is valued at over \$400 million dollars.<sup>51</sup><sup>52</sup> Despite its proven industrial use in products such as paper, fabrics, insulation and more, current federal marijuana laws make it illegal to grow industrial hemp in the United States. Given the negligible levels of THC in the product, the fear of industrial hemp is not only misplaced, it harms the economy by forcing companies to import raw hemp. Clearly, this is a missed opportunity for American farmers and related industries.

## Summary

The current regulatory system for marijuana is broken. As more states move to legalize the substance, the problems will only get worse.

Due to this patchwork system, many operating in compliance with state law may find themselves raided and their businesses ruined, while others that are actually breaking both federal and state laws may never be caught.

Many patients who need marijuana for legitimate medical purposes can't obtain it legally. They are forced to the black market, risking their safety and paying exorbitant prices. Simultaneously, medical marijuana programs have the potential to become safe havens for those looking to use the drug for relaxation or recreational purposes.

Today, legitimate marijuana businesses can't operate like other businesses, and state tax laws often aren't consistent with their marijuana laws. Federal prosecutors and local law enforcement in each state often handle the situation differently, and the entire industry – an industry that many Americans support – remains clouded by uncertainty, illegitimacy and fear.



## Opportunities

It is time to make a change. While individual states remain the laboratories of innovation, it is time for the federal government to make sure that states, businesses, and individuals are able to act in an environment that has coherent and consistent laws. Congress should pursue each of the following options:

### 1. Tax and Regulate Marijuana

Considering the growing number of jurisdictions that legalize medical marijuana and the two jurisdictions that legalize recreational use, it is time that Congress end the federal prohibition on marijuana, removing it from the Controlled Substances Act and creating a regulatory and taxation framework, similar to the frameworks in place for alcohol and tobacco.



A specific tax on marijuana grown for all purposes should be imposed to help fund substance abuse dependency treatment, law enforcement, and help reduce the federal debt.

Revenue estimates from taxing marijuana vary due to uncertainties surrounding the existing marijuana market and how legalization and regulation would impact price and consumption habits. Assuming increased legal consumption and reduction in prices, a \$50 per ounce tax, for example, would raise estimated revenue of \$20 billion annually.<sup>53</sup> Any study of the fiscal impact should also include the savings generated by reduced expenditures on marijuana interdiction and enforcement.

This represents a unique opportunity to save ruined lives, wasted enforcement and prison costs, while simultaneously creating a new industry, with new jobs and revenues that will improve the federal budget outlook.

Passing such legislation would represent a key part of a comprehensive approach to marijuana reform. However Congress should also consider additional legislation that would help to ease problems during this transitional period, such as addressing medical marijuana specifically to ensure patient access, and alleviating specific tax and business challenges.

## **2. Allow states to Enact Existing Medical Marijuana Laws without Federal Interference**

The federal government needs to allow states to enforce their laws without fear of interference by removing barriers to medical marijuana distribution and research. Descheduling marijuana in the Controlled Substances Act will ensure that patients and providers that operate in compliance with state law remain immune from federal prosecution.

Congress should pass legislation that will accomplish this by declaring that in a state where medical marijuana is legal, no provision of the Controlled Substance Act, or the Federal Food, Drug and Cosmetic Act shall prohibit or restrict:

- The prescription or recommendation of marijuana for medical use by a medical professional.
- An individual from obtaining, manufacturing, possessing, or transporting within their state marijuana for medical purposes.
- A pharmacy or other entity authorized to distribute medical marijuana.
- An authorized entity from producing, processing, or distributing marijuana.

Taking such action will help ensure patients have safe access to medical marijuana, and ensure that states are free to enact comprehensive regulatory oversight of their programs without fear that they will be putting business owners and patients at risk or breaking federal law.

## **3. Remove Ban on Industrial Hemp**

Congress should remove the senseless ban on industrial hemp by passing legislation removing industrial hemp from the definition of marijuana. This would allow a new agricultural industry to begin to flourish in the United States.

## **4. Allow the Marijuana Industry to Operate in a Normal Business Environment**

The existing medical marijuana industry and its expansion to include recreational use of marijuana will result in many new businesses facing the tax and banking problems that so many medical marijuana businesses have already faced.

Congress should immediately remove tax and banking barriers to allow legitimate businesses to operate in states that have legalized marijuana for medical and recreational use.

To do this, Congress should amend the Internal Revenue Code to allow tax deductions for normal business expenses incurred by dispensaries and other medical marijuana





businesses. This is how all other businesses operate and allowing such deductions will help to both legitimize the industry and make it more accessible.

Congress should also protect banks from federal fines or seizures simply because they accept deposits from medical marijuana businesses. Currently, these businesses operate as cash-only enterprises which are high risk and ripe for abuse. With Congressional action, they can begin to function like normal businesses, making deposits, managing accounts, and issuing paychecks.

## **5. A Sensible Drug Policy Working Group**

Members of Congress working on these issues should formalize their working relationship. A Sensible Drug Policy Working Group would educate members of Congress and their staff on the facts of marijuana use and national drug policy, and work to coordinate efforts to pass comprehensive legislation to address the issues outlined in this report.



## Conclusion

The path forward for a more sensible drug policy is clear. Over 106 million people live in jurisdictions that have endorsed the use of marijuana in some form. Nearly half of Americans agree it should be legal. The American people are clearly far ahead of the government, and it is time for Congress to catch up.

Congress can take action to help provide safe access to marijuana for patients who need it and obtain it legally under state law. These reforms can help to provide the emerging marijuana industry with some certainty and allow businesses the ability to deduct expenses and deposit money like all other businesses. For those states that choose to legalize marijuana, the federal government should provide a regulatory and taxation framework just as it has for alcohol and tobacco.

It is time for Congress to allow states and voters to decide how they want to treat marijuana. The current system is broken. It wastes resources and destroys individual lives, in turn damaging families and entire communities. It is past time to take action and stop this tragic waste in the future.

## Citations

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<sup>1</sup> ORS 475.864, from H.B. 2396, signed into law in September 1973.

<sup>2</sup> Alaska, California, Colorado, Connecticut, Maine, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio, Rhode Island, and Washington

<sup>3</sup> Proposition 215 “Compassionate Use Act of 1996” <http://vote96.sos.ca.gov/bp/215text.htm>

<sup>4</sup> Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Maine, Maryland, Massachusetts, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington

<sup>5</sup> 21 U.S.C. §812(b)(1)

<sup>6</sup> <http://www.samhsa.gov/data/NSDUH/2k11Results/NSDUHresults2011.pdf>

<sup>7</sup> <http://www.samhsa.gov/data/NSDUH/2011SummNatFindDetTables/NSDUH-DetTabsPDFWHTML2011/2k11DetailedTabs/Web/HTML/NSDUH-DetTabsSect1peTabs1to46-2011.htm#Tab1.1B>

<sup>8</sup> According to the FBI, the highest number of arrests in 2011 were for drug abuse violations (estimated at 1,531,251 arrests), followed by larceny-theft (estimated at 1,264,986 arrests), and driving under the influence (estimated at 1,215,077 arrests). 81.8% of the estimated 1,531,251 arrests for drug abuse violations in 2011 were for possession offenses. Therefore approximately 1,252,563 arrests in 2011 were for drug possession. 43.3% (or approximately 663,031) of all drug abuse violations in 2011 were for marijuana possession. These statistics do not include federal crime. <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/persons-arrested/persons-arrested>

<sup>9</sup> <http://www.gallup.com/poll/159152/americans-federal-gov-state-marijuana-laws.aspx>

<sup>10</sup> <http://www.gallup.com/poll/144086/New-High-Americans-Support-Legalizing-Marijuana.aspx>

<sup>11</sup> An estimated 730,000 medical marijuana patients referenced in:

[http://www.denverpost.com/breakingnews/ci\\_17690621](http://www.denverpost.com/breakingnews/ci_17690621)

<sup>12</sup> <http://www.washingtonpost.com/blogs/post-politics/wp/2012/12/14/obama-ive-got-bigger-fish-to-fry-than-pot-smokers/>

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- <sup>13</sup> Compiled from 2010 Census Data from the 19 jurisdiction with medical marijuana
- <sup>14</sup> <http://www.drugabuse.gov/publications/drugfacts/marijuana>
- <sup>15</sup> <http://www.oregon.gov/pharmacy/Imports/Marijuana/StaffInfo/CannabisReview.pdf>
- <sup>16</sup> Historical timeline compiled from primarily two sources;
- <http://www.pbs.org/wgbh/pages/frontline/shows/dope/etc/cron.html>
  - <http://www.cancer.gov/cancertopics/pdq/cam/cannabis/healthprofessional/page3>
- Voting results: <http://vote.wa.gov/results/20121106/Initiative-Measure-No-502-Concerns-marijuana.html>
- <sup>17</sup> <http://www.samhsa.gov/data/NSDUH/2k11Results/NSDUHresults2011.pdf>
- <sup>18</sup> <http://www.samhsa.gov/data/NSDUH/2011SummNatFindDetTables/NSDUH-DetTabsPDFWHTML2011/2k11DetailedTabs/Web/HTML/NSDUH-DetTabsSect1peTabs1to46-2011.htm#Tab1.1B>
- <sup>19</sup> <http://www.icpsr.umich.edu/icpsrweb/SAMHDA/studies/32722/version/3>
- <sup>20</sup> <http://www.cdc.gov/alcohol/fact-sheets/alcohol-use.htm>
- <sup>21</sup> [http://www.cdc.gov/motorvehiclesafety/impaired\\_driving/impaired-drv\\_factsheet.html](http://www.cdc.gov/motorvehiclesafety/impaired_driving/impaired-drv_factsheet.html)
- <sup>22</sup> <http://www.cdc.gov/alcohol/fact-sheets/alcohol-use.htm>
- <sup>23</sup> [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/)
- <sup>24</sup> <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6101a3.htm#fig2>
- <sup>25</sup> According to the FBI, the highest number of arrests in 2011 were for drug abuse violations (estimated at 1,531,251 arrests), followed by larceny-theft (estimated at 1,264,986 arrests), and driving under the influence (estimated at 1,215,077 arrests). 81.8% of the estimated 1,531,251 arrests for drug abuse violations in 2011 were for possession offenses. Therefore approximately 1,252,563 arrests in 2011 were for drug possession. 43.3% (or approximately 663,031) of all drug abuse violations in 2011 were for marijuana possession. These statistics do not include federal crime. <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/persons-arrested/persons-arrested>
- <sup>26</sup> Based on information from CRS Report R41535 and CATO Study: “The Budgetary Impact of Ending Drug Prohibition.” September 27, 2010. Cato studies indicate a 21.47% allocation of money spent on drug prohibition enforcement to marijuana based on the share of arrests by DEA (P. 7). For FY2011, expenditure for enforcement was (see CRS report R41535) about \$25.5 billion. Based on the allocation in the CATO study, that would imply \$5.5 billion spent on enforcing marijuana.
- <sup>27</sup> <http://www.naacp.org/press/entry/naacp-passes-historic-resolution-calling-for-end-to-war-on-drugs>
- <sup>28</sup> <http://www.economist.com/blogs/democracyinamerica/2012/11/legalising-marijuana>
- <sup>29</sup> Instituto Mexicano para la Competitividad, Referenced in: <http://harpers.org/archive/2013/02/harpers-index-347/>
- <sup>30</sup> <http://www.npr.org/templates/story/story.php?storyId=126890838>
- <sup>31</sup> <http://www.gallup.com/poll/159152/americans-federal-gov-state-marijuana-laws.aspx>
- <sup>32</sup> <http://www.gallup.com/poll/159152/americans-federal-gov-state-marijuana-laws.aspx>
- <sup>33</sup> <http://www.gallup.com/poll/159152/americans-federal-gov-state-marijuana-laws.aspx>
- <sup>34</sup> An estimated 730,000 medical marijuana patients referenced in: [http://www.denverpost.com/breakingnews/ci\\_17690621](http://www.denverpost.com/breakingnews/ci_17690621)
- <sup>35</sup> <http://blog.norml.org/2012/04/11/estimate-worldwide-population-of-lawful-medical-marijuana-patients/>
- <sup>36</sup> <http://www.cdph.ca.gov/programs/mmp/pages/default.aspx>
- <sup>37</sup> [http://seattletimes.com/html/localnews/2020067771\\_marijuanacolorado06m.html](http://seattletimes.com/html/localnews/2020067771_marijuanacolorado06m.html)
- <sup>38</sup> <http://public.health.oregon.gov/diseasesconditions/chronicdisease/medicalmarijuanaprogram/pages/data.aspx>
- <sup>39</sup> Section compiled from information from two primary sources:
- “Medical Marijuana: The Supremacy Clause, Federalism, and the Interplay Between State and Federal Laws,” CRS, November 9, 2012
  - <http://www.ncsl.org/issues-research/health/state-medical-marijuana-laws.aspx>
- <sup>40</sup> <http://blogs.justice.gov/main/archives/192>
- <sup>41</sup> [http://safeaccessnow.org/downloads/James\\_Cole\\_memo\\_06\\_29\\_2011.pdf](http://safeaccessnow.org/downloads/James_Cole_memo_06_29_2011.pdf)
- <sup>42</sup> <http://www.rollingstone.com/politics/news/obamas-war-on-pot-20120216>
- <sup>43</sup> <http://www.nytimes.com/2013/01/14/us/14pot.html?pagewanted=all&r=0>

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<sup>44</sup> <http://vote.wa.gov/results/20121106/Initiative-Measure-No-502-Concerns-marijuana.html>

<sup>45</sup> CRS information and

[http://www.coloradoattorneygeneral.gov/sites/default/files/press\\_releases/2012/11/07/110712\\_passage\\_amendment\\_64\\_statement\\_final.pdf](http://www.coloradoattorneygeneral.gov/sites/default/files/press_releases/2012/11/07/110712_passage_amendment_64_statement_final.pdf)

<sup>46</sup> CRS information and [http://sos.wa.gov/\\_assets/elections/initiatives/i502.pdf](http://sos.wa.gov/_assets/elections/initiatives/i502.pdf)

<sup>47</sup> 26 U.S.C. § 280E

<sup>48</sup> <http://www.ndsn.org/august97/nih.html>

<sup>49</sup> <http://www.drugabuse.gov/about-nida/organization/divisions/division-basic-neuroscience-behavioral-research-dbnbr/behavioral-cognitive-science-resear-1>

<sup>50</sup> [http://www.nytimes.com/2010/01/19/health/policy/19marijuana.html?\\_r=0](http://www.nytimes.com/2010/01/19/health/policy/19marijuana.html?_r=0)

<sup>51</sup> [http://articles.washingtonpost.com/2013-01-13/national/36311853\\_1\\_hemp-products-food-and-body-care-products-marijuana-legalization](http://articles.washingtonpost.com/2013-01-13/national/36311853_1_hemp-products-food-and-body-care-products-marijuana-legalization)

<sup>52</sup> The group “Vote Hemp” estimates that the Hemp industry is equal to \$400 million nationwide

[http://www.votehemp.com/about\\_overview.html](http://www.votehemp.com/about_overview.html)

<sup>53</sup> Informal estimate provided by the Congressional Research Service