



...working to legalize responsible adult use...

National Organization for the Reform of Marijuana Laws

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Testimony of Paul Armentano, Deputy Director:

National Organization for the Reform of Marijuana Laws

In Regard to:

Challenges for Cannabis and Banking: Outside Perspectives

My name is Paul Armentano and for the past two-and-one-half decades I have worked professionally in the field of marijuana policy. I have authored various books specific to the issue of cannabis policy, and my writing has been featured in over two dozen academic anthologies. I have testified on matters of cannabis policy before numerous state legislatures and federal agencies, as well as at various academic and legal symposiums.

I hold a faculty position with The Lambert Center for the Study of Medicinal Marijuana and Hemp at Thomas Jefferson University in Philadelphia, and I currently serve as the Deputy Director for the National Organization for the Reform of Marijuana Laws (NORML). Since its founding in 1970, NORML has served as an advocate for those who believe that the use of cannabis by responsible adults should not be subject to criminalization. NORML further believes that a regulated, above-ground marijuana market -- rather than the perpetuation of a criminal underground market -- best mitigates potential risks associated with cannabis use and sales.

I wish to thank the members of this Committee for holding this hearing to discuss strategies to facilitate greater financial transparency in the legal cannabis industry and retail market.

To date, ten states¹ – Alaska, California, Colorado, Illinois, Maine², Massachusetts, Michigan³, Nevada, Oregon, and Washington – permit retail sales of recreational marijuana to adults. According to data⁴ compiled by the Institute on Taxation and Economic Policy, tax revenues in 2018 derived from state-sanctioned recreational sales surpassed \$1 billion – a 57 percent increase over 2017 levels. Annual excise tax revenues on adult-use cannabis sales in these states (\$1.04 billion) rivaled those for all forms of alcohol (\$1.16 billion).

These tax revenues indicate the significant and exponentially growing size of the legal, retail recreational cannabis market in the United States. In coming years, this legal market is only going to increase in size, as additional states enact similar cannabis regulatory and taxation schemes governing the adult use marijuana market.

Yet there remains one significant hurdle facing players and consumers who participate in this market. Almost none of these licensed businesses operating in this increasingly lucrative space can legally obtain a bank account, process credit cards, or take standard business deductions on their federal taxes. This is because federal law continues to inappropriately define all marijuana-related endeavors as criminal enterprises, including those commercial activities that are licensed and legally regulated under state laws.

In short, federal lawmakers are mandating that this rapidly growing multi-billion dollar industry operate on a cash-only basis – an environment that makes businesses more susceptible to theft and more difficult to audit. It also places the safety and welfare of these businesses' customers at risk, as they must carry significant amounts of cash on their persons in order to make legal purchases at retail facilities. Similarly, it needlessly jeopardizes the safety of retail staffers, who are susceptible to robbery.

¹ Although both Vermont and the District of Columbia permit adults to legally possess marijuana, neither jurisdiction regulates retail cannabis sales.

² Retail adult use sales have yet to begin in Maine.

³ Retail adult use sales have yet to begin in Michigan.

⁴ Institute on Taxation and Economic Policy, 2019. *Taxing Cannabis*: https://itep.org/taxing-cannabis/?fbclid=IwAR0DUf48AoHQ9J7y81EDxjiA_Xd-zssUXJSvJmjnwdP-8UR9BE3zuN-SOsM

Good faith efforts taken by the Obama administration to address this situation have thus far failed to adequately do so. Specifically, in 2014, the US Department of Treasury issued guidelines⁵ for financial institutions seeking to provide services to state-licensed cannabis businesses. Yet, according to the latest data compiled by the US Treasury Department's Financial Crimes Enforcement Network (FinCEN), fewer than 500 financial institutions nationwide are actively providing services to the thousands of existing cannabis-related businesses.⁶

For an industry seeking legitimacy and requiring transparency, the inability to obtain banking and credit access remains a primary, but unnecessary, roadblock. In order to truly bring the marijuana industry out of the shadows, actions need to be taken by Congress to amend these outdated and discriminatory practices.

In short, no industry can operate safely, transparently, or effectively without access to banks or other financial institutions and it is self-evident that this industry, 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 needlessly place them in harm's way.

⁵ <https://www.scribd.com/document/207174093/Marijuana-Business-Guidance>

⁶ FinCEN. 2018. *Marijuana Banking Update*:
https://www.fincen.gov/sites/default/files/shared/Marijuana_Banking_Update_September_2018.pdf