



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

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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 NCIA 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-Page-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/1ShHxqitX5nv4eXrWgDrOoLIB8Dt_Cnow/view?usp=sharing