



September 26, 2023

The Honorable Patty Murray
President Pro Tempore
U.S. Senate
154 Russell Senate Office Building
Washington, DC 20510

The Honorable Steve Scalise
House Majority Leader
U.S. House of Representatives
2049 Rayburn House Office
Building Washington, DC 20515

The Honorable Chuck Schumer
Senate Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Hakeem Jeffries
House Minority Leader
U.S. House of Representatives
2433 Rayburn House Office
Building Washington, DC 2051

The Honorable Mitch McConnell
Senate Minority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Chairman
Senate Banking Committee
Hart Senate Office Building, 503
Washington, DC 20510

The Honorable Kevin McCarthy
Speaker of the House
U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Tim Scott
Ranking Member
Senate Banking Committee
Hart Senate Office Building, 104
Washington, DC 20510

Re: Support of SAFER Banking Act

Dear Congressional Leaders

We write today to urge you to advance the SAFER Banking Act of 2023 to increase access to regulated banking and financial services for state-licensed cannabis businesses in jurisdictions where such dispensaries are legal. We are a bipartisan group of state attorneys general who, like you, have a strong interest in enabling economic growth and stability while simultaneously protecting the physical and economic wellbeing of constituents working in this industry. We are also committed to the rule of law and the strict enforcement of cannabis laws so as to rid the economy of illegal actors.

Three-quarters of states and several territories have legalized some use of cannabis. Thirty-eight states, three territories and the District of Columbia now permit medical use of cannabis

products.¹ Twenty-three states, two territories and the District of Columbia have enacted measures to regulate cannabis for adult use.² It is estimated that, as of 2022, the legalized cannabis industry provides over 400,000 full time equivalent jobs across the country.³ These businesses have a sizable economic impact. Industry experts have recently projected that combined U.S. sales of regulated cannabis could reach \$33.6 billion by the end of 2023.⁴ Changes in cannabis policy are evolving rapidly and the industry is growing even faster.

Notwithstanding the large majority of Americans with legal access to marijuana products, cannabis presently remains classified as an illegal substance under the federal Controlled Substances Act and certain federal banking statutes.⁵ The current federal laws present a risk of criminal and civil liability to banks providing services to state-licensed cannabis dispensaries and related businesses. This risk has significantly inhibited the ability of financial institutions to provide services to regulated cannabis operators and leaves those businesses struggling to find financing. The lack of access to banking services creates both barriers to entry into the industry and instability for existing businesses. Recently, Mastercard announced that it will no longer allow its cardholders to use their bank cards to purchase cannabis, cutting off a key revenue stream and making it harder for customers and businesses alike.⁶ Further, where the public perceives that regulated businesses can only conduct business in cash, employees and customers are at greater risk of violent crime in pursuit of that cash. Several jurisdictions have seen a spike in robberies of cannabis businesses, some of which have resulted in deaths.⁷ Steady access to

¹ <https://www.ncsl.org/health/state-medical-cannabis-laws>.

² *Id.*

³ <https://leafly-cms-production.imgix.net/wp-content/uploads/2022/02/22132544/LeaflyJobsReport2022.pdf>.

⁴ <https://mjbizdaily.com/us-cannabis-sales-estimates/#:~:text=Combined%20U.S.%20medical%20and%20recreational,analysis%20from%20the%20MJBiz%20Factbook>.

⁵ Last fall, the U.S. Food and Drug Administration was directed to perform a review of the status of cannabis scheduling. That work remains ongoing.

⁶ <https://www.nytimes.com/2023/07/28/business/mastercard-debit-cannabis-transactions.html>.

⁷ <https://www.npr.org/2022/04/20/1093841615/pot-shop-robberies-are-fueling-calls-for-a-u-s-banking-bill>; <https://www.columbian.com/news/2023/jan/19/cannabis-shop-robberies-spiked-in-clark-county-in-2022/>; <https://www.oklahoman.com/story/news/2022/08/06/another-arrest-in->

regulated banking is essential to the economic success of these businesses and the physical safety of our constituents.

The current banking restrictions also constrict state agencies' effort to collect taxes and conduct oversight. As of August 2023, twenty states collect tax revenues derived from cannabis.⁹ This number will continue to rise as Delaware, Minnesota, and Virginia have legalized expanded cannabis markets but have not yet begun taxable sales. Many state cannabis regulators have reported that they have been turned away by the financial institutions that regularly service the agencies for other business and tax needs.¹⁰ Certain state regulators were told that banks would not accept funds related to their regulated cannabis programs.¹¹ Some others were denied access to purchasing cards or denied the ability to accept credit card payments from regulated businesses.¹² This legislation would ensure that state governments do not forfeit hundreds of millions of dollars in tax revenue that the cannabis industry generates.

To address these challenges, we ask that the Senate advance the SAFER Banking Act or similar legislation that would establish a safe harbor for depository institutions providing a financial product or service to a regulated business states that have regulations to ensure accountability in the cannabis industry. An effective safe harbor would bring billions of dollars into the banking sector, enabling law enforcement, federal, state, and local tax agencies, and cannabis regulators in thirty-eight states and several territories to more effectively monitor and ensure compliance of cannabis businesses and their transactions.

Our banking industry must be given the tools to address the needs of businesses throughout the states and territories. This will enable the evolution of a banking system for legalized cannabis-related businesses that is both responsive and effective in meeting the demands of our economy. We look forward to working with you as Congress moves forward in this process and to lending our voice and expertise as you develop legislation.

[fatal-robbery-attempt-of-oklahoma-marijuana-shop/65394286007/](https://www.fatal-robbery-attempt-of-oklahoma-marijuana-shop/65394286007/);
<https://www.nytimes.com/2022/03/15/business/cannabis-dispensaries-oakland.html>.

⁸ <https://www.fincen.gov/what-we-do> (“The basic concept underlying FinCEN’s core activities is ‘follow the money.’”).

⁹ The tax revenue generated by this industry is not insignificant. For example, Montana recently launched its regulated cannabis market with sales beginning in January of 2022. Since that time, Montana has generated over \$76 million in cannabis excise taxes.

<https://mtrevenue.gov/cannabis-sales-reports/>.

¹⁰ <https://www.cann-ra.org/news-events/cannra-comments-on-the-urgency-of-the-cannabis-banking-situation-in-states>; <https://www.cann-ra.org/news-events/1t70jdkso1c16tlzvealo5zgbaocw>.

¹¹ *Id.*

¹² *Id.*

Respectfully,



Anthony G. Brown
Attorney General of Maryland



Brian L. Schwalb
Attorney General of Washington, D.C.



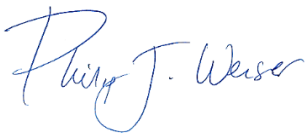
Gentner Drummond
Attorney General of Oklahoma



Kris Mayes
Attorney General of Arizona



Rob Bonta
Attorney General of California



Philip J. Weiser
Attorney General of Colorado



William Tong
Attorney General of Connecticut



Christopher M. Carr
Attorney General of Georgia



Anne E. Lopez
Attorney General of Hawaii



Kwame Raoul
Attorney General of Illinois



Andrea Campbell
Attorney General of Massachusetts



Aaron Frey
Attorney General of Maine



Dana Nessel
Attorney General of Michigan



Matthew J. Platkin
Attorney General of New Jersey



Raúl Torrez
Attorney General of New Mexico



Bob Ferguson
Attorney General of Washington



Aaron D. Ford
Attorney General of Nevada



Letitia A. James
Attorney General of New York



Ellen F. Rosenblum
Attorney General of Oregon



Michelle A. Henry
Attorney General of Pennsylvania



Peter F. Neronha
Attorney General of Rhode Island



Charity R. Clark
Attorney General of Vermont