

**Testimony of Mr. Neal Levine, CEO of the Cannabis Trade Federation
Before the U.S. House Committee on the Judiciary Subcommittee on Crime, Terrorism, and
Homeland Security
Marijuana Laws in America: Racial Justice and the Need for Reform
July 10, 2019**

Chairwoman Bass, Ranking Member Ratcliffe, and Members of this Subcommittee, I would like to thank you for the opportunity to testify today. My name is Neal Levine and I am the CEO of the Cannabis Trade Federation (CTF), a national coalition of cannabis-related businesses dedicated to professionalizing, diversifying, and unifying the cannabis business community. Our members are some of the most successful and responsible operators in the U.S. cannabis market today, generating billions of dollars in sales while navigating and complying with regulations that are not only comprehensive in scope, but vary significantly from state-to-state. These companies are doing everything in their power to follow the rules and regulations set for them.

Overview of CTF and the Cannabis Industry

I am in a unique position to understand these state laws, since I spent many years working for the Marijuana Policy Project (MPP) as the director of state policies and, later, director of state campaigns, helping to pass state cannabis laws and ballot measures. With that work in mind, I hope that Members on the Subcommittee who believe in the principle of federalism appreciate that cannabis reform in the country has been driven, as the Tenth Amendment provides, by “the States respectively.” At a time when the federal government has largely suffered through cannabis policy inertia, 33 states, the District of Columbia, and numerous U.S. territories have passed effective medical cannabis laws and 11 of those states, DC, and two territories have made cannabis legal for all adults. In many of these states, reforms have been driven by the people, with strong majorities passing adult-use ballot measures in states as diverse as California, Nevada, Alaska, and Michigan.

In public polling, we now see majority support for cannabis legalization among all political persuasions. In a survey released last October, Gallup found support at 64 percent overall, with 51 percent of Republicans joining 72 percent of Democrats and 67 percent of Independents. Individuals have all kinds of reasons to support cannabis legalization. Some are concerned that criminalizing cannabis use has astronomical social costs; some are concerned that cannabis prohibition enforcement disproportionately impacts communities and people of color; some have a passion for helping veterans or young children who derive therapeutic benefits from cannabis; some have concluded that, like alcohol, cannabis is better as a regulated product; and, finally, some just like cannabis. Whatever the reason, we urge Congress to respect the will of the people and of legislators in States that have chosen regulation over prohibition.

I worked closely at MPP with Heather Azzi, Steve Fox, and Mason Tvert, all of whom are now working with CTF as staff or retained advisors. The four of us collectively have dedicated more than 60 years to enacting more just and sensible cannabis laws in this country. And we bring

that passion and determination to our work with CTF. Heather, Steve and myself are three of the five members of the CTF executive committee, along with former Republican congressman Carlos Curbelo and Linda Mercado Greene, owner of a Washington D.C. medical marijuana dispensary – the only dispensary east of the river in Historic Anacostia.

CTF represents an industry that has evolved dramatically over the past two decades. In fact, some of the earliest providers of medical cannabis in this country, whether they were on the west coast or elsewhere, would probably object to being considered “industry” participants at all, as they were driven primarily by a desire to bring the healing attributes of the cannabis plant to patients who were suffering from a variety of conditions. But whether cannabis providers were operating as non-profit cooperatives in California or vertically-integrated for-profit companies in Colorado, they were part of a system that was shifting the cultivation and sale of cannabis from the underground, illegal market and into markets that are highly regulated and monitored at the state level. These markets provide more reliable products in safer environments for customers of all types.

Today, the cannabis industry is not only serving patients and adult-use consumers, but it has become a driver of economic growth and tax revenue in states across the country. In Colorado, for example, since January 1, 2014, sales of state-legal cannabis have exceeded \$6.5 billion, while tax revenue and fees at the state level just crossed the one-billion dollar mark. This does not include hundreds of millions of additional tax dollars garnered by Colorado localities. As of March 2019, there were more than 40,000 individuals in Colorado with active occupational licenses that allow them to work directly in the cannabis industry. Nationally, the Marijuana Business Daily’s Annual Fact Book estimates state-legal cannabis sales will exceed \$12 billion in 2019. It also estimates the state-legal cannabis industry currently employs the equivalent of 175,000 to 215,000 full-time workers.

The Challenge Current Federal Cannabis Laws Place on State-Legal Cannabis Activity

Despite these impressive figures, for more than two decades, there has been a troubling and frustrating dichotomy between state and federal cannabis laws. In the early days of state-legal medical cannabis, this often had extremely harsh ramifications, with the federal government conducting heavily-armed raids on caregivers and cooperatives, primarily in California. Individuals acting in compliance with state law were investigated, arrested, prosecuted, and even imprisoned. More recently, since the passage of the first legalization ballot measures in Colorado and Washington in 2012 and the subsequent issuance of the Cole Memo by the Department of Justice in August 2013, direct federal law enforcement actions against state-compliant cannabis businesses have been rare. This has been true even after then-Attorney General Jeff Sessions rescinded the Cole Memo in January 2018. Nevertheless, the challenges stemming from the illegal status of cannabis at the federal level remain.

As most people are aware, one of the most significant issues related to the state-federal dichotomy is that cannabis businesses struggle to obtain and maintain accounts with financial institutions due to the underlying activity being illegal under federal law. Although the federal

Financial Crimes Enforcement Network (FinCEN) issued guidance to financial institutions working with cannabis companies in February 2014, the majority of banks are still hesitant to engage in this space. The level to which cannabis businesses must rely on cash transactions as a result poses a hazard to both cannabis industry workers and the general public. To the extent there is good news to report, FINCen has maintained its 2014 guidance regarding banking cannabis businesses. From a law enforcement perspective, this makes eminent sense as it is always better for law enforcement to detect illicit activity if the proceeds of that activity are run through the regulated banking system. Our members support the anti-money laundering rules and regulations and believe bad actors will be more easily detected if the financial system is more readily available to state-legal cannabis businesses. To this end, we support passage of the SAFE Banking Act, which would enable financial institutions to have cannabis-related businesses as customers without fear of federal prosecution, forfeiture, or interference from their regulators.

Of course, the differences between state and federal law also create a tension for cannabis industry operators and employees, who must show up to work every day knowing that their activity could put them in danger of federal prosecution. These are dedicated and passionate workers acting in strict compliance with state laws, with the support of their state and local governments, and they should not be forced to live under the constant threat of arrest and punishment by federal authorities.

For some cannabis industry workers, the distinction between state and federal laws has even affected their ability to obtain U.S. citizenship. Recently, two Colorado residents were denied naturalization because of their work in the cannabis industry. Officials with the U.S. Citizenship and Immigration Services asserted that this work demonstrated a lack of “good moral character.” In response, several members of the full Committee signed a letter to the Department of Justice and the Department of Homeland Security, urging them to reverse this practice of denying citizenship due to cannabis industry work. CTF applauds Members for taking action like this and hopes this letter will have an impact on current cannabis policy as it relates to immigrants. But the most effective means by which Congress can end this practice is by passing, as soon as possible, legislation that would bring state and federal cannabis laws in line.

The STATES Act : Resolving the state-federal conflict and expanding opportunity in the industry

The most immediate path to resolving the state-federal cannabis conflict is passage of the STATES Act (H.R. 2093), currently sponsored by seven Democrats and seven Republicans on the House Judiciary Committee, including the Ranking Member of the full Committee, Mr. Collins of Georgia. The STATES Act would amend the Controlled Substances Act to exempt individuals and business that are acting in compliance with state cannabis laws. Even Attorney General William Barr, in recent testimony, suggested that he would prefer the approach encompassed by the STATES Act over the status quo of inconsistent state and federal laws.

Immediate passage of the STATES Act could also help spur economic activity in disadvantaged areas in our country. In a recent hearing before the Senate Appropriations Committee, Treasury Secretary Steven Mnuchin was asked whether cannabis businesses would qualify for certain tax credits under the Tax Cuts and Jobs Act of 2017, which established opportunity zones and provided financial incentives for businesses to locate in those areas. Due to the illegal status of cannabis, Secretary Mnuchin testified that cannabis businesses would not be eligible for these tax credits. In order to encourage greater investment in these depressed areas, we must exempt state-legal cannabis activity from the provisions of the Controlled Substance Act, as the STATES Act would do.

On the subject of taxes, it should also be mentioned that the STATES Act would bring tax fairness to cannabis companies. Under current law, specifically Section 280E of the Internal Revenue Code, cannabis businesses are prohibited from deducting expenses related to the trafficking of a federally illegal controlled substance. The result is that the effective federal tax rate on cannabis businesses is often between 70 and 90 percent, and at times higher. By making the underlying activity of these businesses legal under federal law, they will be treated like any other business and will pay the same tax rates that other businesses do.

Potential business owners could also benefit from passage of the STATES Act. Within the past few weeks, we have seen the introduction of legislation to make cannabis businesses eligible for Small Business Administration loans, including microloans for women, veterans, and minorities. CTF supports these kinds of efforts to advance a more inclusive industry, but know that the federal government will not be able to make loans to cannabis businesses as long as cannabis remains illegal under federal law.

As more and more states opt out of cannabis prohibition and allow highly regulated businesses to generate revenue selling cannabis, social equity programs designed to increase minority ownership in the cannabis industry are a major component of these new state cannabis laws. This is in recognition of the fact that enforcement of the war on drugs has disproportionately impacted communities and people of color, and the majority of arrests in the war on drugs have been for cannabis.

But the dichotomy between federal and state cannabis law are hindering these efforts at the state level. As [reported](#) in the Boston Globe late last year, John Barros, the City of Boston's Chief of Economic Development, “said the federal prohibition on marijuana has been a major obstacle to equity, since it prevents banks from loaning money to cannabis firms — and because most of the city’s small business assistance efforts are funded by federal dollars that cannot go toward [cannabis] companies.”

Passage of the STATES Act would benefit states and localities that are working to implement social equity programs in order to increase minority ownership in the cannabis industry. These programs are hampered by the fact that they are intended to inspire individuals, some of whom have been ensnared previously by the criminal justice system, to engage in activity that remains illegal under federal law. In addition, while I noted earlier the challenges associated with

obtaining banking services in the cannabis industry, the situation is even worse when it comes to obtaining loans to operate cannabis businesses. As long as the state-federal conflict exists, it will be very difficult for social equity applicants to secure operating capital from most traditional sources of those funds.

As an organization, CTF is dedicated to encouraging greater minority ownership and participation in the cannabis industry. In fact, in May of this year, we launched a groundbreaking task force centered on diversity, equity, and inclusion in the cannabis space. The task force, which includes some of the most significant civil rights leaders in the nation, along with a diverse group of cannabis industry professionals, will work with members of the CTF board to develop and implement a strategy to diversify the cannabis industry and ensure that those communities that were disproportionately impacted by the War on Drugs derive a significant share of the benefits produced by the legal cannabis industry.

CTF also supports a broad range of reforms that have been proposed in Congress. From the grants to states and localities to cover the costs of expungements in the Marijuana Freedom and Opportunity Act to the community reinvestment provisions in the Marijuana Justice Act, we believe there is a role for the federal government to play in ensuring that those who have suffered due to marijuana prohibition are not left behind under legalization. Where progress on these bills is possible, we will be dedicating our resources toward encouraging their passage.

We have a long way to go with respect to reversing the harms caused by marijuana prohibition and need to begin the process as soon as possible. The question before this Subcommittee and before Congress is whether there is a willingness to advance a bill to the President's desk that will immediately address nearly all of the issues I have raised. With strong bipartisan support for legislation like the STATES Act, it is possible *during the current session of Congress* to take major steps toward respecting state cannabis laws, protecting workers, and advancing a more secure, vibrant, and equitable cannabis industry. We hope that Congress will take advantage of the opportunity.

I look forward to answering any questions you may have. Thank you.