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Why the Senate Should Pass the SAFER Banking Act



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In 1996, California became the first state to legalize medical marijuana. This started a chain of events—states began legalizing medical marijuana through ballot measures and legislation despite continued federal criminalization. In 2012, Washington and Colorado became the first states to legalize recreational marijuana. Eleven years later, a total of 38 states and the District of Columbia have legalized medical and/or recreational marijuana. But states, researchers, and businesses have struggled with the conflicts between state and federal laws. That’s why the Department of Health and Human Services (HHS) has recommended that the Drug Enforcement Agency (DEA) reschedule marijuana and why the Senate is considering the bipartisan *Secure And Fair Enforcement Regulation (SAFER) Banking Act*.

In late August, HHS sent a [letter](#) to the Drug Enforcement Administration (DEA) recommending the agency reschedule marijuana from a Schedule I controlled substance to a Schedule III controlled substance. This move would help marijuana businesses struggling with high tax rates and researchers struggling with red tape. But it wouldn’t solve the lack of access to banking services.

Under current law, any bank or credit union that provides banking services to a marijuana business could be [prosecuted](#) for money laundering, aiding and abetting, or conspiracy, even if it’s operating in a state where marijuana has been legalized. As a result, only 10% of US banks and 5% of credit unions [provide](#) banking services to marijuana businesses, restricting their access to bank accounts, loans, credit card processing, and new capital. This opens the door to both violent and financial crime as businesses are forced to operate on an all-cash basis and under limited oversight. It also

acts as a major barrier to minority-owned small businesses who don't have the financial resources to compete with larger, better-funded businesses.

The *SAFER Banking Act* would fix this conflict between state and federal law and provide marijuana businesses with the same banking services and financial oversight offered to other businesses. This legitimacy will make them less likely to be targets of violent and organized crime, money laundering, tax evasion, and other types of crime. It would provide banks with the criminal and civil protections they need to serve marijuana businesses and ensure banks won't be punished by federal regulators for doing so. And it would allow states to tax and regulate legal marijuana more effectively. Banks will not be required to offer banking services to marijuana businesses—it's left to their discretion whether to enter into this market. Community Development Financial Institutions (CDFIs) that provide financial services and capital in minority and underserved communities are also included in the legislation, ensuring minority-owned marijuana businesses will have access to financial support. Many have criticized the lack of diversity in the marijuana industry—in 2017, 81% of marijuana business owners were white. This legislation would ensure more people of color are able to get the resources they need to start and operate their own marijuana business (where legal) and has gained support from the Minority Cannabis Business Association (MCBA). Senators should support the *SAFER Banking Act* because it would help small business owners, enhance financial oversight of the marijuana industry, and improve public safety.

Majority Leader Schumer also plans to include the *Harnessing Opportunities by Pursuing Expungement (HOPE) Act* and the *Gun Rights and Marijuana (GRAM) Act* in the final *SAFER Banking Act* legislation when it moves to the Senate floor. The *HOPE Act*, another piece of bipartisan legislation, would provide states and local governments with financial resources and incentives to expunge marijuana records in their jurisdictions. The large majority of marijuana charges are handled by state and local law enforcement and cannot be expunged at the federal level. A criminal record, even for something as minor as marijuana possession, can act as a major barrier to employment and housing opportunities, which often contributes to recidivism. Passing the *HOPE Act* would give thousands of Americans a second chance at getting a stable job, living a good life, and contributing positively to our society.

The final piece of the package will be the *GRAM Act*, yet another piece of bipartisan legislation which would allow medical marijuana patients to purchase and possess guns, which is currently prohibited under federal statute. While we strongly believe guns should be kept out of the hands of dangerous criminals, people using medical marijuana to treat illnesses in ways that are legal according to their state do not fit this description. There is no reason someone using marijuana to treat chronic pain should have their Second Amendment rights removed. They do not pose a threat to our society.

Senators should feel confident in supporting the *SAFER Banking Act*, the *HOPE Act*, and the *GRAM Act*. These are all pieces of bipartisan, common-sense legislation that will make our country safer and help Americans thrive.

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