



Proposed Amendments and Alternatives to the Marijuana Opportunity, Reinvestment and Expungement Act of 2021

I. The MORE Act Should Acknowledge the Challenges of Addressing Racial Inequity in the Existing Legal Cannabis Industry.

The congressional findings that form the basis of the MORE Act of 2021 are honest and frank: After 80 years of racially unjust cannabis prohibition enforcement and devastating collateral consequences, the same communities that have been most harmed by cannabis prohibition have so far benefited the least from the legal marijuana marketplace. We offer these amendments and alternatives to the MORE Act in the same honest and frank spirit, with appreciation for the bill's accurate recognition that Black and Brown communities are already being left out of what's become a multibillion-dollar market.

The MORE Act sponsors deserve full credit for their determination to address this, but the federal government's experience with cannabis until now has been exclusively limited to interdiction and prosecution predominantly targeting Black and Latino communities. It needs time to develop the tools and skills to regulate marijuana in a way that repairs the harms of the war on drugs. Similarly, despite clear progress over the past five years, states that have legalized cannabis have not yet developed clear competence to regulate the industry in an equitable way. In the eleven years since the first states legalized cannabis, no state or city has claimed to achieve the goal of repairing the harms of the war on drugs. Fewer than 20% of cannabis business owners nationally identify as minorities, and only about 4% are Black. State officials have emphasized that it has taken multiple attempts and adjustments over years to begin making progress toward their stated equity goals.

Pretending cannabis is the same as alcohol or tobacco is not a substitute for developing the competence to regulate marijuana. While superficial similarities exist, to equate the prohibition and regulation of alcohol to that of cannabis is legally and historically inaccurate. It is not a sound basis for detailed cannabis policy. Neither alcohol nor tobacco regulations have been developed to repair damage on the scale of that caused by the war on drugs. Further, neither of those regulatory models are ideal. As a country, we are still trying to undo the public health damage of letting Big Tobacco run wild.

Ultimately, if we are serious about creating a fair and equitable national industry, we must allow the federal government to develop its own core competency in cannabis regulation and prevent the domination of the market by a small number of corporations in the meantime.

II. The MORE Act Should Take Measures to Prevent Corporate Consolidation That Would Undermine Racial and Economic Equity Measures Being Developed through State Cannabis Law and Regulations.

The MORE Act's automatic expungement of cannabis offenses and reinvestment of tax revenue have rightfully earned attention for the positive impact these measures would have on communities disproportionately harmed by the drug war. But far less attention has been paid to the impact of marijuana's removal from the federal Controlled Substances Act (CSA), specifically the high likelihood that such removal will result in a handful of national cannabis firms rapidly dominating the market and putting most small cultivators and retailers out of business. This would undermine the core of many state equity efforts that seek to provide communities harmed by cannabis prohibition with sustainable economic opportunities.

Our concern is that, without an intentional regulatory structure to prevent it, this legislation will almost certainly encourage rapid corporate consolidation. Despite the MORE Act's provisions intended otherwise, this would likely block meaningful long-term Black and Brown participation in the cannabis industry. If the same pattern we've seen in the state-by-state rollout of cannabis legalization repeats itself at the federal level, no subsequent law or regulation will be able to reverse it.

But with foresight, this result is avoidable. We propose incorporating an incremental regulatory structure that allows the many states that have taken the lead in racial justice through the cannabis sector to continue to design, experiment, and measure their progress without immediately flooding the market with interstate sales.

As Vanderbilt Law School Professor Rob Mikos wrote in a Boston University Law Review article this year, “[I]f we want to limit industry consolidation or boost minority participation in the cannabis market or shape the cannabis market in other ways, it will likely take congressional legislation to get the job done. . . . As it stands, however, Congress does not even appear to recognize the impending rise of interstate commerce in cannabis and the challenges it will pose to state regulators.”¹

With this understanding, the purpose of these amendments is to offer constructive alternatives to provisions in the MORE Act that would initially maintain the state borders for regulation as they currently exist. The approach would better prevent individual states from being overwhelmed or undercut by other state markets that have developed under entirely different regulatory regimes. In the meantime, federal lawmakers and administration officials should take steps to understand which state programs are working.

¹ Mikos, Robert A., Interstate Commerce in Cannabis (March 2 2021). Boston University Law Review, Forthcoming, Vanderbilt Law Research Paper No. 21-09, Available at SSRN: <https://ssrn.com/abstract=3796262>

III. Federal Legislation Should Clearly Support Existing and Emerging State Cannabis Equity Programs.

The federal government and its citizens must acknowledge that developing the competency to address racial inequities in cannabis will take time and study. That process is necessary before opening the floodgates to interstate commerce and corporate domination.

Below are two alternative approaches to accomplish this. The first would create an independent Office of Cannabis Justice (OCJ) to regulate interstate commerce and enforce anti-cartel restrictions, preventing the creation of a national oligopoly similar to the state-level oligopolies that currently exist. The second is a cooperative federalism approach – an incremental solution that would exempt the limited possession, cultivation, and social sharing of cannabis from the Controlled Substances Act (CSA) while allowing states that meet certain criteria to opt out of the CSA with respect to marijuana. This would protect individual cannabis consumers from federal arrest and prosecution while allowing states to continue to experiment with different types of equitable commercial markets.

Approach #1: Regulation of Interstate Commerce

- The federal government does not have existing expertise or competence in regulating marijuana, but it has the capacity to develop it. This approach would revise the MORE Act to make the Office of Cannabis Justice autonomous and independent. The general structure is modeled after the Consumer Finance Protection Bureau, an autonomous agency within the Federal Reserve System.
- We consider regulation of the cannabis industry to be a civil rights and racial and economic justice concern. Therefore, instead of placing permitting authority under the Secretary of the Treasury, the sections and authority regarding permitting would be moved to the independent Office of Cannabis Justice, housed within the Justice Department as part of a comprehensive and unified regulatory structure centered on equity and justice.
- As with the original MORE Act of 2021, our proposal would create a federal permitting system. To allow smaller businesses to better compete with well-financed ones, we recommend the cost and barriers to a federal permit to be set as low as possible. The purposes of our proposed permit system are:
 - For the OCJ to enforce an anti-cartel restriction such that once marijuana is removed from the CSA, no person or corporation may own or control more than five cannabis enterprise licenses. Holders of excess licenses may devolve, sell, or spin off those excess licenses in a manner to be established by the OCJ through the regulatory process and as permitted by state law.
 - To prevent bad-faith actors from participating in the marijuana industry. We applaud the 2021 MORE Act’s sponsors for removing the felony exclusion provision in the previous version of the legislation. It should be replaced with a mandatory disqualification of applicants who have violated the RICO Act or engaged in substantial fraud, abusive labor practices, human trafficking, slavery, intentional failure to pay wages, substantial harm to public health, the

environment or an endangered species, terroristic actions, money laundering, misappropriation of public funds, and/or public corruption.

- We propose that the OCJ have exclusive jurisdiction over the permitting of interstate cannabis commerce and that the agency design a thoughtful, evidence-based approach to interstate sales as it studies existing state programs.
 - One possibility would be to allow for regional compacts, such as an agreement among West Coast or New England states to allow for limited interstate commerce, essentially creating pilot programs that can be studied and analyzed.
 - Another would be to allow only equity-licensed businesses to engage in interstate commerce, as proposed by the Craft Cannabis Alliance.²
- We recommend tying federal funds to clear racial justice benchmarks consistent with the findings and goals of the MORE Act. We incorporate into our recommendations the Marijuana Justice Act³'s model, which makes states with certain disproportionate arrest and incarceration rates ineligible for certain criminal justice funding. Within the federal tax structure established by the MORE Act, a percentage of federal tax revenue could similarly be reimbursed to states that reach racial justice benchmarks relative to marijuana sales and licensing that benefits communities most harmed by prohibition.

Approach #2: Cooperative Federalism Approach

- This approach was adapted from a proposal in the UCLA Law Review by Erwin Chemerinsky, Jolene Forman, Allen Hopper, and Sam Kamin.⁴ They suggested an incremental solution to empower experimentation with legalization in some states while allowing other states to remain under federal prohibition.
- Our adaptation creates an exception in the CSA for the limited possession, home cultivation, and social sharing of cannabis by adults and for state-legal medical use so that these activities are no longer crimes under federal law (in accordance with the CSA, neither the original MORE Act of 2021 nor our revision preempts state law⁵).
- This approach would allow states to opt out of the CSA as it pertains to cannabis. So long as a state follows federal guidelines, only state law would govern marijuana enforcement within the bounds of that state. The CSA would continue to govern states that have not opted out, as well as interstate trafficking.

² Smith, Adam J (November 2019). Can Interstate Commerce Help Solve the Cannabis Industry's Equity Problems?, Merry Jane. Available at: <https://merryjane.com/culture/can-interstate-commerce-help-solve-the-cannabisindustrys-equity-problem>

³ S. 597 – Marijuana Justice Act of 2019. Available at: <https://www.congress.gov/bill/116th-congress/senate-bill/597>

⁴ Chemerinsky, Erwin and Jolene Forman, Allen Hopper, and Sam Kamin (January 2015). Cooperative Federalism and Marijuana Regulation, 62 UCLA L. Rev. 74. Available at: <https://www.uclalawreview.org/pdf/62-1-2.pdf>

⁵ 21 USC 903 (Part F - General Provisions) of Subchapter I of the Controlled Substances Act provides expressly that the federal CSA does not preempt state law where there is no "positive conflict" between federal and state law such that "the two cannot consistently stand together."

- Other examples of federal and state cooperation include the Clean Water Act, Clean Air Act, and Patient Protection and Affordable Care Act.
- As envisioned by Chemerinsky and his co-authors, the federal guidelines would mirror the Cole memo. Our adaptation reflects those guidelines and adds racial justice-focused federal guidelines consistent with the findings of the MORE Act. States opting out would be required to maintain regulatory frameworks where the communities most harmed by marijuana prohibition benefit the most from the legal marijuana market.
- The benefit of this incremental approach is to allow state governments to continue their experimentation while giving the federal government time to understand those models and develop its own evidence-based cannabis policies.

These amendments are a project of the [Parabola Center for Law and Policy](#) led by Shaleen Title and Richard Juang.

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117TH CONGRESS

1ST SESSION

H. R.

To decriminalize and deschedule cannabis, to provide for reinvestment in certain persons adversely impacted by the War on Drugs, to provide for expungement of certain cannabis offenses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. NADLER introduced the following bill; which was referred to the Committee on

A BILL

To decriminalize and deschedule cannabis, to provide for reinvestment in certain persons adversely impacted by the War on Drugs, to provide for expungement of certain cannabis offenses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “Marijuana Opportunity Reinvestment and Expungement Act of 2021” or the “MORE Act of 2021”.

SEC. 2. FINDINGS.

The Congress finds as follows:

- (1) The communities that have been most harmed by cannabis prohibition are benefiting the least from the legal marijuana marketplace.
- (2) A legacy of racial and ethnic injustices, compounded by the disproportionate collateral consequences of 80 years of cannabis prohibition enforcement, now limits participation in the industry.
- (3) 37 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands have adopted laws allowing legal access to cannabis, and 15 States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, and Guam have adopted laws legalizing cannabis for adult recreational use.
- (4) A total of 47 States have reformed their laws pertaining to cannabis despite the Schedule I status of marijuana and its Federal criminalization [and](#)

demonstrated that commerce in cannabis may be conducted as a safe and well-regulated trade.⁶

(5) Legal cannabis sales totaled \$20,000,000,000 in 2020 and are projected to reach \$40,500,000,000 by 2025.

(6) According to the American Civil Liberties Union (ACLU), enforcing cannabis prohibition laws costs taxpayers approximately \$3.6 billion a year.

(7) The continued enforcement of cannabis prohibition laws results in over 600,000 arrests annually, disproportionately impacting people of color who are almost 4 times more likely to be arrested for cannabis possession than their White counterparts, despite equal rates of use across populations.

(8) People of color have been historically targeted by discriminatory sentencing practices resulting in Black men receiving drug sentences that are 13.1 percent longer than sentences imposed for White men and Latinos being nearly 6.5 times more likely to receive a Federal sentence for cannabis possession than non-Hispanic Whites.

(9) In 2013, simple cannabis possession was the fourth most common cause of deportation for any offense and the most common cause of deportation for drug law violations.

(10) Fewer than one-fifth of cannabis business owners identify as minorities and only approximately 4 percent are black.

(11) Applicants for cannabis licenses are limited by numerous laws, regulations, and exorbitant permit applications, licensing fees, and costs in these States, which can require more than \$700,000.

(12) Historically disproportionate arrest and conviction rates make it particularly difficult for people of color to enter the legal cannabis marketplace, as most States bar these individuals from participating.

(13) Federal law severely limits access to loans and capital for cannabis businesses, disproportionately impacting minority small business owners.

(14) Some States and municipalities have taken proactive steps to mitigate inequalities in the legal cannabis marketplace and ensure equal participation in the industry.

⁶ The Parabola Center considers it important that Congress expressly recognize that, consistent with Justice Brandeis's recognition that the States are able to provide a "laboratory" for new social and economic approaches to public policy, many States have demonstrated that the "experiment" of cannabis legalization has been a clear success with respect to public health and public safety.

SEC. 3. DECRIMINALIZATION OF CANNABIS.

(a) CANNABIS REMOVED FROM SCHEDULE OF CONTROLLED SUBSTANCES.—

(1) REMOVAL IN STATUTE.—Subsection (c) of schedule I of section 202(c) of the Controlled Substances Act (21 U.S.C. 812) is amended—

(A) by striking “(10) Marihuana.”; and

(B) by striking “(17) Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp (as defined in section 297A of the Agricultural Marketing Act of 1946).”.

(2) REMOVAL FROM SCHEDULE.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall finalize a rulemaking under section 201(a)(2) removing marihuana and tetrahydrocannabinols from the schedules of controlled substances. For the purposes of the Controlled Substances Act, marihuana and tetrahydrocannabinols shall each be deemed to be a drug or other substance that does not meet the requirements for inclusion in any schedule. A rulemaking under this paragraph shall be considered to have taken effect as of the date of enactment of this Act for purposes of any offense committed, case pending, conviction entered, and, in the case of a juvenile, any offense committed, case pending, and adjudication of juvenile delinquency entered before, on, or after the date of enactment of this Act.

[NEW PARAGRAPH INSERTED. IN THIS NEW ADDITION TO THE MORE ACT, THE PARABOLA CENTER PROPOSES A COMPREHENSIVE STRUCTURE FOR AN INDEPNDENT REGULATORY AGENCY FOR CANNABIS ENTERPRISES: THE OFFICE OF CANNABIS JUSTICE.

FOR CLARITY IN THIS PROPOSAL AND TO RETAIN CROSS-REFERENCES, SUBSEQUENT PARAGRAPHS HAVE NOT BEEN REDESIGNATED. THE ORIGINAL PARAGRAPH SEQUENCE RESUMES AFTER THIS NEW ADDITION.]

(b) Part II, Title 28 of the United States Code is amended by adding at the end the following new chapter:⁷

“Chapter 40B –Office of Cannabis Justice

“Section 599C.

“(a) CONGRESSIONAL FINDINGS –

⁷ Section 501 of Chapter 31, Title 28 United States Code establishes the Department of Justice. Subsequent chapters establish the subordinate bureaus. For coherence and ease of codification, this amendment proposes creating a new Chapter 40B, establishing the Office of Cannabis Justice, immediately after Chapter 40A, which establishes the Bureau of Alcohol, Tobacco, Firearms and Explosives.

“(1) States that have decriminalized or legalized the commerce in marijuana and products containing tetrahydrocannabinols ("cannabis") have established tailored and comprehensive statutory and regulatory schemes pursuant to their sovereign authority;

“(2) Some States have established comprehensive standards and goals for redressing the harms of cannabis prohibition and for ensuring equitable access to the lawful cannabis trade within their borders;

“(3) An opening of State borders to the unregulated commerce in cannabis will disrupt such statutory and regulatory schemes, standards, and goals and an unregulated commerce in cannabis is likely to burden small local cannabis enterprises and burden state equity and economic justice and economic opportunity programs, which the MORE Act is expressly intended to support and enhance.

“(b) DEFINITIONS. – As used in this Chapter –

“(1) The term “interstate commerce” shall mean any movement, transportation, or exchange by any person or entity between one State, District, territory, tribe, or other possession of the United States and another State, District, territory, tribe, or other possession of the United State by any means.

“(c) IN GENERAL – Therefore, to further the equitable purposes of the MORE Act –

“(1) Interstate commerce in cannabis shall not be allowed, except as permitted by the Office of Cannabis Justice, according to standards established by the MORE Act and regulations promulgated thereunder by the Office.

“(2) Notwithstanding any amendment of the Controlled Substances Act, 21 USC 801 et seq. or any other provision of law to the contrary, the Office of Cannabis Justice, as established by the MORE Act, shall have exclusive jurisdiction to regulate the interstate commerce in cannabis.

“(3) The Office of Cannabis Justice shall have concurrent jurisdiction with the States to regulate intrastate commerce in cannabis and to regulate any cannabis enterprise operating in any jurisdiction; Except that, regulations promulgated by the Office on any subject matter shall preempt any State law or regulation on the same subject matter that poses a positive conflict with the Office’s regulation such that the two cannot consistently stand together.

“(d) BANKING AND ORDINARY ELECTRONIC FINANCIAL TRANSACTIONS ALLOWED – For the purposes of subparagraph (b)(1), “Interstate commerce” shall not include banking and other ordinary financial transactions, including but not limited to electronic transactions, generally conducted by businesses.

“(e) ESTABLISHMENT OF THE OFFICE OF CANNABIS JUSTICE.⁸ –

“(1) IN GENERAL -- There is established in the Department of Justice an independent office⁹ to be known as the "Office of Cannabis Justice," which shall regulate the lawful commerce in cannabis, except where such regulation is expressly and exclusively allocated to another executive department. The Office of Cannabis Justice shall have the authority and duty to consult with any executive department, agency, bureau or other instrumentality of the United States concerned with the regulation of the lawful commerce in cannabis or the interdiction and prosecution of the unlawful production, possession, distribution or trafficking in cannabis.

“(2) AUTHORITY AND POWERS -- The Office of Cannabis Justice shall be considered an Executive agency, as defined in section 105 of title 5, United States Code. As reasonably necessary to fulfill its duties, the Office shall be authorized and have the power to promulgate rules, orders, guidance, studies, and recommendations; enter into agreements enter into agreements with other agencies, States, Districts, municipalities, tribes, territories or other possessions or instrumentalities of the United States; establish subordinate programs; issue, suspend, and revoke licenses; conduct investigations, issue subpoenas, compel testimony, and take depositions; establish fair tribunals and conduct hearings and proceedings; enter into civil actions against private persons, States,

⁸ The Parabola Center recommends that federal cannabis regulation be situated in a new independent agency with strong powers. In the original MORE Act, the Office of Cannabis Justice is a minor part of the Department of Justice, with relatively limited powers and resources. We propose creating an independent Office of Cannabis Justice (OCJ) with substantial regulatory powers instead. This “strong” OCJ would be administratively situated in the Department of Justice and able to avail itself of DOJ’s knowledge and resources, while having independent sources of authority and the licensing powers given to Treasury in the original MORE Act. In terms of general structure, we have modeled our independent OCJ on the Consumer Finance Protection Bureau, which is located in the Federal Reserve System, but is a free-standing independent agency.

Our choice of the DOJ rests on two principles: 1) the DOJ has a depth of knowledge, experience, and resources related to the broad systematic protection of civil rights that exceeds most other Departments and which the OCJ should be able to draw upon. 2) For the decriminalization of cannabis to be successful, the DOJ must itself reform its attitude toward drug policy and enforcement. Placing a strong, independent OCJ within the Justice Department is a starting point for that reform. *Ultimately, in accordance with its findings, we regard the MORE Act as a racial justice and equity bill transforming drug policy in the US, not simply a bill regarding commerce and revenue.*

An alternative approach is to create an independent agency within Treasury to regulate the cannabis sector. Our model for a strong Office of Cannabis Justice, with licensing and regulatory authority can be adopted as a new Chapter within Treasury’s statutes with few changes. Even if administratively situated in Treasury, independence for such a regulatory body would be important in order to give it the authority and stature necessary to make equity in a national cannabis sector a reality.

We welcome further conversation about the role of an independent regulatory Office of Cannabis Justice.

⁹ Precedent exists for an independent agency within the Department of Justice: “The Office of the Inspector General (OIG) in the U.S. Department of Justice (DOJ) is a statutorily created independent entity whose mission is to promote integrity, efficiency, and accountability within the Department of Justice.” (emphasis added). <https://oig.justice.gov/about>. The general structure presented here for the Office of Cannabis Justice (particularly with regard to its autonomy and powers) is modelled after the Consumer Finance Protection Bureau, which sits as an autonomous agency within the Federal Reserve System.

Districts, tribes, territories, and any other possessions of the United States; refer persons to the Attorney General, the Department of Justice, or any other executive department for investigation and prosecution on civil and criminal matters; hire, manage, and terminate employees; to issue grants; and to enter into contracts, hold property, works, funds, and other assets.¹⁰

“(3) CONFORMITY WITH FEDERAL LAW -- Except as otherwise provided expressly by law or as clearly frustrate or contradict the purpose the Office of Cannabis Justice, all Federal laws dealing with public or Federal contracts, property, works, officers, employees, budgets, or funds, including the provisions of chapters 5 and 7 of title 5, shall apply to the exercise of the powers of the Office of Cannabis Justice.

“(f) DIRECTOR —

“(1) IN GENERAL.—There is established the position of the Director, who shall serve as the head of the Office of Cannabis Justice.

“(2) APPOINTMENT.—Subject to paragraph (3), the Director shall be appointed by the President, by and with the advice and consent of the Senate.

“(3) QUALIFICATION.—The President shall nominate the Director from among individuals who are citizens or permanent residents of the United States.

“(4) COMPENSATION.—The Director shall be compensated at the rate prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.

“(g) AUTONOMY OF THE OFFICE.—

“(1) COORDINATION WITH THE DEPARTMENT OF JUSTICE.— The Office may, with the consent of the Attorney General, avail itself of the resources and instrumentalities of the Department of Justice, in addition to any resources and instrumentalities separately allocated to the Office, to fulfill its duties.

“(2) AUTONOMY.—Notwithstanding any reasonable use of the resources and instrumentalities of the Department of Justice, the Office shall be independent and autonomous. The Attorney General and the Department of Justice may not --

“(A) intervene in any matter or proceeding before the Director, including examinations or enforcement actions, unless otherwise specifically provided by law;

¹⁰ Alternate language: “The OCJ shall have all the powers necessary or convenient to carry out and effectuate its purposes including, but not limited to, the power to determine whether any State, territory, or district of the United States has taken proactive steps to mitigate inequalities in the legal cannabis marketplace and ensure equal participation in the industry.”

“(B) intervene in any agreement between the Office and any person, agency, State, District, municipality, tribe, territory or other possession or instrumentality of the United States, unless otherwise specifically provided by law;

“(C) appoint, direct, or remove any officer or employee of the Office; or

“(D) merge or consolidate the Office, or any of the functions or responsibilities of the Bureau, with any division or office of the Department of Justice or any other executive department.

“(3) RULES AND ORDERS.—No rule, order, guidance, study, or recommendation of the Office shall be subject to approval or review by the Attorney General. The Attorney General may not delay or prevent the issuance of any rule, order, guidance, study, or recommendation of the Office.

“(4) RECOMMENDATIONS AND TESTIMONY.—No officer or agency of the United States shall have any authority to require the Director or any other officer of the Office to submit legislative recommendations, or testimony or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress, if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the Director or such officer, and do not necessarily reflect the views of the Attorney General or the President.

“(5) CLARIFICATION OF AUTONOMY OF THE OFFICE IN LEGAL PROCEEDINGS.—The Office shall not be liable under any provision of law for any action or inaction of the Attorney General, and the Attorney General shall not be liable under any provision of law for any action or inaction of the Office.

“(h) ADMINISTRATION.

“(1) PERSONNEL.—

“(A) IN GENERAL.—The Director may fix the number of, and appoint and direct, all employees of the Bureau, in accordance with the applicable provisions of title 5, United States Code.

“(B) EMPLOYEES OF THE OFFICE.—The Director is authorized to employ qualified persons as may be deemed necessary to conduct the business of the Office. Unless otherwise provided expressly by law, any individual appointed under this section shall be an employee as defined in section 2105 of title 5, United States Code, and subject to the provisions of such title and other laws generally applicable to the employees of an Executive agency.

“(C) WAIVER AUTHORITY. —In making any appointment under subparagraph (A), the Director may waive the requirements of chapter 33 of title 5, United States Code, and the regulations implementing such chapter, to the

extent necessary to appoint employees on terms and conditions that are consistent with those set forth in section 11(1) of the Federal Reserve Act (12 U.S.C. 248(1)), while providing for—

“(I) fair, credible, and transparent methods of establishing qualification requirements for, recruitment for, and appointments to positions;

“(II) fair and open competition and equitable treatment in the consideration and selection of individuals to positions;

“(III) fair, credible, and transparent methods of assigning, reassigning, detailing, transferring, and promoting employees.

“(2) CONFORMITY WITH THE PRACTICES AND PROCEDURES OF THE DEPARTMENT OF JUSTICE.—In implementing this paragraph (d), the Director shall, in all other matters, generally conform to the practices and procedures of the Department of Justice in the administration and management of the Office, except where doing so would clearly undermine or be contrary to the purposes of the Office or of the MORE Act.

“Section 599D. GENERAL PROVISIONS FOR THE PERMITTING AND REGULATION OF CANNABIS ENTERPRISES AND INTERSTATE COMMERCE IN CANNABIS.

“(a) IN GENERAL. —The Office of Cannabis Justice shall have authority to regulate any cannabis enterprise and have exclusive authority to regulate cannabis in interstate commerce. The Office shall promulgate regulations, issue and revoke permits and licenses, conduct administrative hearings, conduct public hearings, issue guidance and recommendations, conduct studies and investigations, and engage in all other activities reasonably necessary and convenient to effectuate this section.

“(b) CONCURRENT FEDERAL AND STATE LICENSE FOR CANNABIS ENTERPRISES REQUIRED. — No later than one year from the opening of the application process for a federal cannabis enterprise license by the Office, no state license shall be valid for the operation of a cannabis enterprise without a concurrent license issued by the Office.

“(c) ANTI-CARTEL RESTRICTIONS. --

“(1) No person, corporation, association, or other entity shall, at any one time, own, be a majority shareholder of, or otherwise have direct or indirect control or

management of more than a total of five cannabis enterprise licenses issued by the Office.¹¹

“(2) No part of this section (c) or any other part of this Chapter shall preempt or otherwise prohibit any State or other jurisdiction from providing stricter limitations on the number of licenses, as a measure expressly intended and clearly and substantially calculated to establish an equitable marketplace that promote the economic viability and empowerment of minority and disadvantaged business enterprises and persons harmed by cannabis prohibition.

“(3) Any enterprise in violation of the limit set in (c)(1) or of a legitimate limit set in (c)(2) where the enterprise operates, shall be subject to the revocation of the offending excess licenses and liable for the repayment of any public grants, loans or other monies allocated to the offending enterprises, such tax penalties as may be imposed by the Secretary of the Treasury for unlawful commerce in cannabis under the MORE Act, and subject to such civil penalties as the Office of Cannabis Justice may impose pursuant to the regulations promulgated to enforce this Chapter.

“(4) No State or other jurisdiction shall be eligible for any grants or other funds arising from the MORE Act or administered by the Office of Cannabis Justice unless such State or jurisdiction provides the Office of Cannabis Justice with a registry of all cannabis enterprise licenses and license holders, containing such information as the Office may require and in a format determined by the Director, to monitor, investigate and enforce this Section.

“(d) **MANDATORY BARS TO PERMITTING.** – The Office of Cannabis Justice shall not issue any permit of any type under this Chapter to –

“(1) any business enterprise, corporation, or other entity that:

“(A) has been convicted;

“(B) has admitted to sufficient facts for a conviction;

“(C) has been subject to sufficient findings of fact by a Court of the United States for a conviction;

¹¹ The Parabola Center considers it to be constitutionally permissible to impose this national cap on licenses, retroactively. In general, the MORE Act derives its authority from the commerce and equal protection clauses. Our proposed cap is consistent with the expressed intention of the MORE Act to create both fair opportunity and substantive racial justice within the cannabis sector, nationally.

Our model of an independent OCJ with regulatory authority allows for the OCJ to promulgate a regulatory process by which holders of excess licenses may devolve, spin off, or sell such excess licenses to the extent permitted by state law. The OCJ in our model has sufficient authority to create a reasonable window of time for holders of excess licenses to reduce their holdings to meet the federal cap.

“(D) has been subject to a civil remedy or penalty by a Court of the United States arising from a civil action brought by an agency or instrumentality of the United States;

“(E) has entered into a plea agreement, deferred prosecution agreement, non-prosecution agreement, or civil settlement with any agency or instrumentality of the United States –

“for any violation of: the Racketeer Influenced and Corrupt Organizations Act, except where the unlawful conduct consisted of marijuana cultivation, processing, distribution, or sales; the civil rights of any person; the Foreign Corrupt Practices Act; or of any other federal criminal statute for which the gravamen is substantial fraud, abusive labor practices, human trafficking, slavery, intentional failure to pay wages, substantial harm to public health, the environment or an endangered species, terroristic actions, money laundering, misappropriation of public funds or public corruption.

“(2) No permit shall be issued to any current or former majority owner or shareholder, officer, director, or agent of a business enterprise, corporation or other entity described in subparagraph (d)(1)(A) through (E).

“(3) No permit shall be issued to any business enterprise, corporation or other entity that is subject to the direct control, indirect control or substantial influence over decision-making of a business enterprise, corporation or other corporate entity described in subparagraph (d)(1)(A) through (E) or any person described in subparagraph (b)(2).

“(4) No permit shall be issued to any business enterprise, corporation, or other entity whose revenue, value or assets substantially accrues to the benefit of any business enterprise, corporation, or corporate entity described in subparagraph (d)(1)(A) through (E) or any person described in subparagraph (b)(2).

"Section 599E. PERMITTING OF CANNABIS ENTERPRISES.

"(a) IN GENERAL.—Every person before commencing business as a cannabis enterprise, and at such other time as the Director shall by regulation prescribe, shall make application for a permit from the Office of Cannabis Justice. The application shall be in such form as the Director shall prescribe and shall set forth, truthfully and accurately, the information called for on the form. Such application may be rejected and the permit denied if the Director, after notice and opportunity for hearing, finds

“(1) the premises on which it is proposed to conduct the cannabis enterprise are not adequate to protect the revenue, or

“(2) such person (including, in the case of a corporation, any officer, director, or principal stock holder and, in the case of a partnership, a partner) has failed to disclose any material information required or made any material false statement in the application therefor, or

“(3) any other material condition prescribed by the Director through regulation as a prerequisite to permitting has not been met at the time of application.

"(b) PERMIT ISSUANCE.—A person shall not engage in business as a cannabis enterprise without a permit to engage in such business. Such permit, conditioned upon compliance with this chapter and regulations issued thereunder, shall be issued in such form and in such manner as the Director shall by regulation prescribe. A new permit may be required at such other time as the Director shall by regulation prescribe.

“(c) SUSPENSION OR REVOCATION.—

"(1) SHOW CAUSE HEARING.—If the Secretary has reason to believe that any person holding a permit—

“(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

“(B) has violated the conditions of such permit,

"(C) has failed to disclose any material information required or made any material false statement in the application for such permit, or

"(D) has failed to maintain their premises in such manner as to protect the revenue, the Secretary shall issue an order, stating the facts charged, citing such person to show cause why their permit should not be suspended or revoked.

"(2) ACTION FOLLOWING HEARING.—If, after hearing, the Secretary finds that such person has not shown cause why their permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.

"(d) INFORMATION REPORTING.—The Secretary may require—

"(1) information reporting by any person issued a permit under this section, and

"(2) information reporting by such other persons as the Secretary deems necessary to carry out this chapter.

“Section 599F. PERMITTING OF INTERSTATE CANNABIS ENTERPRISES.

“(a) IN GENERAL. – The Office of Cannabis Justice shall have exclusive jurisdiction over the permitting of cannabis enterprises operating in interstate commerce. No person or entity shall engage in interstate commerce in cannabis without a permit issued by the Office of Cannabis Justice, subject to such application process and subject to such conditions and limitations as the Director shall by regulation prescribe.

“(b) APPLICATION, PERMIT ISSUANCE, SUSPENSION OR REVOCATION, AND INFORMATION REPORTING — The Director shall prescribe regulations regarding the application for interstate permits, the conditions and limitations of interstate permits, conduct hearings and revoke permits, and collect information for permitting purposes generally consistent with Section 599D of this Chapter.

“Section 599G. PACKAGING AND LABELING.

“(a) PACKAGES.— The Director may, by regulation and in consultation with the Food and Drug Administration and any other agency the Office deems relevant, prescribe packaging for any cannabis products under the jurisdiction of the Office of Cannabis Justice.

“(b) MARKS, LABELS, AND NOTICES.— The Director may, by regulation, and in consultation with the Food and Drug Administration and any other agency the Office deems relevant, prescribe marks, labels, and notices to be affixed to any package of cannabis under the jurisdiction of the Office of Cannabis Justice.

“(c) LOTTERY FEATURES.—No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of cannabis products.

“(d) INDECENT OR IMMORAL MATERIAL PROHIBITED.—No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of cannabis products.

“Section 599H. Grants and Programs.

“(a) IN GENERAL. —The Director shall, through regulation, establish grants and programs to effectuate the purposes of the MORE Act and this Chapter.

“(b) The Director may direct the grants and programs established in paragraph (a) to:

“(1) the States, Districts, tribes, territories, and other possessions of the United States and their municipalities, agencies, and other instrumentalities;

“(2) other executive departments, agencies, and instrumentalities of the United States;

“(3) to minority-owned business enterprises, disadvantaged business enterprises, non-profit organizations and other private entities.

“SECTION 599I. Criminal and Civil Penalties.

“(a) The Director may seek or impose any criminal or civil penalty provided in the Cannabis Revenue and Regulation Act, Chapter 56, Subtitle E of the Internal Revenue code of 1986 for any violation of this Chapter or to enforce any provision of this Chapter.

“(b) The Director may refer any person or entity to the Attorney General or any other department or agency of the United States for investigation and civil or criminal action related to any violation of this Chapter or to enforce of any provision of this Chapter.

“(c) The Director may through regulation prescribe civil penalties for the violation of any regulation promulgated under this Chapter or any related violation of the MORE Act.

“(d) The Director, upon an investigation and review of relevant facts, may make prosecution and sentencing recommendations for any violation of a criminal statute in connection with the commerce in cannabis.”

(b) CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES ACT.—
The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended—

- (1) in section 102(44) (21 U.S.C. 802(44)), by striking "marihuana,";
- (2) in section 401(b) (21 U.S.C. 841(b))—
 - (A) in paragraph (1)—
 - (i) in subparagraph (A)—
 - (I) in clause (vi), by inserting "or" after the semicolon;
 - (II) by striking clause (vii); and
 - (III) by redesignating clause (viii) as clause (vii);
 - (ii) in subparagraph (B)—
 - (I) in clause (vi), by inserting "or" after the semicolon;
 - (II) by striking clause (vii); and
 - (III) by redesignating clause (viii) as clause (vii);
 - (iii) in subparagraph (C), in the first sentence, by striking "subparagraphs (A), (B), and (D)" and inserting "subparagraphs (A) and (B)";
 - (iv) by striking subparagraph (D);
 - (v) by redesignating subparagraph (E) as subparagraph (D);
 - and
 - (vi) in subparagraph (D)(i), as so redesignated, by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)";
- (B) by striking paragraph (4); and

(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(3) in section 402(c)(2)(B) (21 U.S.C. 25842(c)(2)(B)), by striking ", marihuana,";

(4) in section 403(d)(1) (21 U.S.C. 843(d)(1)), by striking ", marihuana,";

(5) in section 418(a) (21 U.S.C. 859(a)), by striking the last sentence;

(6) in section 419(a) (21 U.S.C. 860(a)), by striking the last sentence;

(7) in section 422(d) (21 U.S.C. 863(d))—

(A) in the matter preceding paragraph (1), by striking "marijuana," and

(B) in paragraph (5), by striking ", such as a marihuana cigarette,"; and

(8) in section 516(d) (21 U.S.C. 886(d)), by striking "section 401(b)(6)" each place the term appears and inserting "section 401(b)(5)".

(c) **CONFORMING AMENDMENTS TO THE OFFICE OF NATIONAL DRUG CONTROL POLICY.** – 21 U.S.C. 1703 is amended—

(1) by striking subparagraph (b)(12) in its entirety and inserting the following: “(12) shall direct Federal funds appropriated to the Office of National Drug Control Policy for studies and contracts related to the safe and equitable legalization, decriminalization, or medicinal use of any substance that any State, territory, possession of the US or tribe, or instrumentality of such entity has legalized, decriminalized, or has declined to prosecute as a criminal offense as a matter of public policy and that has previously been or is presently a scheduled substance under the Controlled Substances Act.”

[ORIGINAL PARAGRAPH SEQUENCE RESUMES.]

(c) **OTHER CONFORMING AMENDMENTS.**—

(1) **NATIONAL FOREST SYSTEM DRUG CONTROL ACT OF 1986.**— The National Forest System Drug Control Act of 1986 (16 U.S.C. 559b et seq.) is amended—

(A) In section 15002(a) (16 U.S.C. 559b(a)) by striking "marijuana and other";

(B) In section 15003(2) (16 U.S.C. 559c(2)) by striking "marijuana and other"; and

(C) In section 15004(2) (16 U.S.C. 559d(2)) by striking "marijuana and other".

(2) INTERCEPTION OF COMMUNICATIONS.—Section 2516 of title 18, United States Code, is amended—

(A) in subsection (1)(e), by striking "marihuana,"; and

(B) in subsection (2) by striking "marihuana".

(3) FMCSA PROVISIONS.—

(A) CONFORMING AMENDMENT.—Section 31301(5) of title 49, United States Code, is amended by striking "section 31306," and inserting "sections 31306, 31306a, and sub-sections (b) and (c) of section 31310,".

(B) DEFINITION.—Section 31306(a) of title 49, United States Code, is amended—

(i) by striking "means any substance" and inserting the following: "means—

"(A) any substance"; and

(ii) by striking the period at the end and inserting "; and

"(B) any substance not covered under subparagraph (A) that was a substance under such section as of December 1, 2018, and specified by the Secretary of Transportation.".

(C) DISQUALIFICATIONS.—Section 31310(b) of title 49, United States Code, is amended by adding at the end the following:

"(3) In this subsection and subsection (c), the term 'controlled substance' has the meaning given such term in section 31306(a).".

(4) FAA PROVISIONS.—Section 45101 of title 49, United States Code, is amended—

(A) by striking "means any substance" and inserting the following: "means—

"(A) any substance"; and

(B) by striking the period at the end and inserting "; and

"(B) any substance not covered under sub paragraph (A) that was a substance under such section as of December 1, 2018, and specified by the Secretary of Transportation.".

(5) FRA PROVISIONS.—Section 20140(a) of title 49, United States Code, is amended—

(A) by striking "means any substance" and inserting the following:
"means—

"(A) any substance"; and

(B) by striking the period at the end and inserting "; and

"(B) any substance not covered under subparagraph (A) that was a substance under such section as of December 1, 2018, and specified by the Secretary of Transportation."

(6) FTA PROVISIONS.—Section 5331(a)(1) of title 49, United States Code, is amended—

(A) by striking "means any substance" and inserting the following:
"means—

"(A) any substance"; and

(B) by striking the period at the end and inserting "; and

"(B) any substance not covered under sub paragraph (A) that was a substance under such section as of December 1, 2018, and whose use the Secretary of Transportation decides has a risk to transportation safety."

(d) RETROACTIVITY.—The amendments made by this section to the Controlled Substances Act (21 U.S.C. 801 et seq.) are retroactive and shall apply to any offense committed, case pending, conviction entered, and, in the case of a juvenile, any offense committed, case pending, or adjudication of juvenile delinquency entered before, on, or after the date of enactment of this Act.

(e) EFFECT ON OTHER LAW.—Nothing in this subtitle shall affect or modify—

(1) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

(2) section 351 of the Public Health Service Act (42 U.S.C. 262); or

(3) the authority of the Commissioner of Food and Drugs and the Secretary of Health and Human Services—

(A) under—

(i) the Federal Food, Drug, and Cosmetic Act (21 U.S. 301 et seq.); or

(ii) section 351 of the Public Health Service Act (42 U.S.C. 262); or

(B) to promulgate Federal regulations and guidelines that relate to products containing cannabis or cannabis-derived compounds under the Act described in subparagraph (A)(i) or the section described in subparagraph (A)(ii).

(f) PUBLIC MEETINGS.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall hold not less than one public meeting to address the regulation, safety, manufacturing, product quality, marketing, labeling, and sale of products containing cannabis or cannabis-derived compounds.

(g) SPECIAL RULE FOR FEDERAL EMPLOYEE TESTING.—Section 503 of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note) is amended by adding at the end the following:

"(h) MARIJUANA.—

"(1) CONTINUED TESTING.—Notwithstanding the Marijuana Opportunity Reinvestment and Expungement Act of 2021 and the amendments made thereby, the Secretary of Health and Human Services may continue to include marijuana for purposes of drug testing of Federal employees subject to this section, Executive Order 12564, or other applicable Federal laws and orders.

"(2) DEFINITION.—The term ‘marijuana’ has the meaning given to the term ‘marihuana’ in section 102 of the Controlled Substances Act (21 U.S.C. 802) on the day before the date of enactment of the Marijuana Opportunity Reinvestment and Expungement Act of 2021."

(h) SPECIAL RULE FOR CERTAIN REGULATIONS.—

(1) IN GENERAL.—The amendments made by this section may not be construed to abridge the authority of the Secretary of Transportation, or the Secretary of the department in which the Coast Guard is operating, to regulate and screen for the use of a controlled substance.

(2) CONTROLLED SUBSTANCE DEFINED.—In this subsection, the term "controlled substance" means—

(A) any substance covered under section 102 of the Controlled Substances Act (21 U.S.C. 802) on the day before the date of enactment of this Act; and

(B) any substance not covered under subparagraph (A) that was a substance covered under section 102 of the Controlled Substances Act (21 U.S.C. 802) on December 1, 2018, and specified by the Secretary of Transportation.

SEC. 4. DEMOGRAPHIC DATA OF CANNABIS BUSINESS OWNERS AND EMPLOYEES.

(a) **IN GENERAL.**—The Bureau of Labor Statistics shall regularly compile, maintain, and make public data on the demographics of—

- (1) individuals who are business owners in the cannabis industry; and
- (2) individuals who are employed in the cannabis industry.

(b) **DEMOGRAPHIC DATA.**—The data collected under subsection (a) shall include data regarding—

- (1) age;
- (2) certifications and licenses;
- (3) disability status;
- (4) educational attainment;
- (5) family and marital status;
- (6) nativity;
- (7) race and Hispanic ethnicity;
- (8) school enrollment;
- (9) veteran status; ~~and~~
- (10) sex~~-~~; and

(11) participation in a social equity, economic empowerment, or other program intended to ensure racial equity in the cannabis industry.¹²

(c) **CONFIDENTIALITY.**—The name, address, and other identifying information of individuals employed in the cannabis industry shall be kept confidential by the Bureau and not be made available to the public.

(d) **DATA COLLECTION AND COMPARABILITY.** – Data and other information collected by the Bureau under this section shall be collected and maintained in a manner that allows for accurate and meaningful comparisons of any two or more jurisdictions.

¹² The Parabola Center recommends strengthening data collection and collection methodology for purposes of evaluating the success or failure of social and economic equity efforts and establishing effective benchmarks.

(e) DEFINITIONS.—In this section:

(1) CANNABIS.—The term "cannabis" means either marijuana or cannabis as defined under the State law authorizing the sale or use of cannabis in which the individual or entity is located.

(2) CANNABIS INDUSTRY.—The term "cannabis industry" means either: an individual or entity that is licensed or permitted under a State or local law to engage in commercial cannabis-related activity or an individual or entity that, as its predominant commercial activity, provides ancillary goods or services to State or local licensed or permitted commercial cannabis businesses

(3) OWNER.—The term "owner" means any one or more of the following: an individual or entity that is defined as an owner under the State or local law where the individual or business is licensed or permitted; an individual or entity who has fractional ownership of a business in the cannabis industry and who substantially control or influence the decision-making of the business; an individual or entity who through other means has indirect control of or influence over the decision-making of a cannabis business in a manner substantially similar to control or influence through ownership, where such indirect control shall include, but not be limited to, having majority or substantial ownership over a holding or parent company of the cannabis business.¹³

SEC. 5. CREATION OF OPPORTUNITY TRUST FUND AND IMPOSITION OF TAXES WITH RESPECT TO CANNABIS PRODUCTS.

(a) ESTABLISHMENT OF TRUST FUND.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9512. OPPORTUNITY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ‘Opportunity Trust Fund’ (referred to in this section as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to such fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the net revenues received in the Treasury from the taxes imposed under chapter 56.

"(c) EXPENDITURES.—Amounts in the Trust Fund shall be available, without further appropriation, only as follows:

¹³ Adopted and modified from 935 Code of Massachusetts Regulations (CMR) 500, definitions of indirect control. In general, the Parabola Center recommend that all legislation take into account modes of control and influence beyond direct legal ownership in assessing whether or not any market in cannabis is genuinely equitable to individuals and communities harmed by cannabis prohibition and consistent with racial and economic justice.

"(1) 50 percent to the Attorney General to carry out section 3052(a) of part OO of the Omnibus Crime Control and Safe Streets Act of 1968.

"(2) 10 percent to the Attorney General to carry out section 3052(b) of part OO of the Omnibus Crime Control and Safe Streets Act of 1968.

"(3) 20 percent to the Administrator of the Small Business Administration to carry out section 6(b)(1) of the Marijuana Opportunity Reinvestment and Expungement Act of 2021.

"(4) 20 percent to the Administrator of the Small Business Administration to carry out section 6(b)(2) of the Marijuana Opportunity Reinvestment and Expungement Act of 2021."

(b) CANNABIS REVENUE AND REGULATION ACT.— Subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

"CHAPTER 56—CANNABIS PRODUCTS

"SUBCHAPTER A. TAX ON CANNABIS PRODUCTS

"SUBCHAPTER B. OCCUPATIONAL TAX

"SUBCHAPTER C. BOND AND PERMITS

"SUBCHAPTER D. OPERATIONS

"SUBCHAPTER E. PENALTIES

"Subchapter A—Tax on Cannabis Products

"Sec. 5901. Imposition of tax.

"Sec. 5902. Definitions.

"Sec. 5903. Liability and method of payment.

"Sec. 5904. Exemption from tax; transfers in bond. "Sec. 5905. Credit, refund, or drawback of tax.

"SEC. 5901. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any cannabis product produced in or imported into the United States a tax equal to—

"(1) for any such product removed during the first 5 calendar years ending after the date on which this chapter becomes effective, the applicable percentage of such product's removal price, and

"(2) for any product removed during any calendar year after the calendar years described in paragraph (1), the applicable equivalent amount.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)(1), the applicable percentage shall be determined as follows:

"(1) For any cannabis product removed during the first 2 calendar years ending after the date on which this chapter becomes effective, 5 percent.

"(2) For any cannabis product removed during the calendar year after the last calendar year to which paragraph (1) applies, 6 percent.

"(3) For any cannabis product removed during the calendar year after the calendar year to which paragraph (2) applies, 7 percent.

"(4) For any cannabis product removed during the calendar year after the calendar year to which paragraph (3) applies, 8 percent.

"(c) APPLICABLE EQUIVALENT AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection(a)(2), the term ‘applicable equivalent amount’ means, with respect to any cannabis product removed during any calendar year, an amount equal to—

"(A) in the case of any cannabis product not described in subparagraph (B), the product of the applicable rate per ounce multiplied by the number of ounces of such product (and a proportionate tax at the like rate on all fractional parts of an ounce of such product), and

"(B) in the case of any THC-measurable cannabis product, the product of the applicable rate per gram multiplied by the number of grams of tetrahydrocannabinol in such product (and a proportionate tax at the like rate on all fractional parts of a gram of tetrahydrocannabinol in such product).

"(2) APPLICABLE RATES.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the term ‘applicable rate per ounce’ means, with respect to any cannabis product removed during any calendar year, 8 percent of the prevailing sales price of cannabis flowers sold in the United States during the 12month period ending one calendar quarter before such calendar year, expressed on a per ounce basis, as determined by the Secretary.

"(B) THC-MEASURABLE CANNABIS PRODUCTS.—For purposes of paragraph (1)(B), the term ‘applicable rate per gram’ means, with respect to any cannabis product removed during any calendar year, 8 percent of the prevailing sales price of tetrahydrocannabinol sold in the United States during the

12-month period ending one calendar quarter before such calendar year, expressed on a per gram basis, as determined by the Secretary.

"(d) TIME OF ATTACHMENT ON CANNABIS PRODUCTS.—The tax under this section shall attach to any cannabis product as soon as such product is in existence as such, whether it be subsequently separated or transferred into any other substance, either in the process of original production or by any subsequent process.

"SEC. 5902. DEFINITIONS.

"(a) DEFINITIONS RELATED TO CANNABIS PRODUCTS.—For purposes of this chapter—

"(1) CANNABIS PRODUCT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘cannabis product’ means any article which contains (or consists of) cannabis.

"(B) EXCEPTIONS.—The term ‘cannabis product’ shall not include an FDA-approved article or industrial hemp.

"(C) FDA-APPROVED ARTICLE.—The term ‘FDA-approved article’ means any article if the producer or importer thereof demonstrates to the satisfaction of the Secretary of Health and Human Services that such article is—

"(i) a drug—

"(I) that is approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of the Public Health Service Act, or "

(II) for which an investigational use exemption has been authorized under section 505(i) of the Federal Food, Drug, and Cosmetic Act or under section 351(a) of the Public Health Service Act, or

"(ii) a combination product (as described in section 503(g) of the Federal Food, Drug, and Cosmetic Act), the constituent parts of which were approved or cleared under section 505, 510(k), or 515 of such Act.

"(D) INDUSTRIAL HEMP.—The term ‘industrial hemp’ means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

"(2) THC-MEASURABLE CANNABIS PRODUCT.— The term ‘THC-measurable cannabis product’ means any cannabis product—

"(A) with respect to which the Secretary has made a determination that the amount of tetrahydrocannabinol in such product can be measured with a high degree of accuracy, or

"(B) which is not cannabis flower and the concentration of tetrahydrocannabinol in which is significantly higher than the average such concentration in cannabis flower.

"(3) CANNABIS.—The term ‘cannabis’ has the meaning given such term under section 102(16) of the Controlled Substances Act (21 U.S.C. 802(16)).

"(b) DEFINITIONS RELATED TO CANNABIS ENTERPRISES.—For purposes of this chapter—

"(1) CANNABIS ENTERPRISE.—The term ‘cannabis enterprise’ means a producer, importer, or export warehouse proprietor.

"(2) PRODUCER.—

"(A) IN GENERAL.—The term ‘producer’ means any person who plants, cultivates, harvests, grows, manufactures, produces, compounds, converts, processes, prepares, or packages any cannabis product.

"(B) PERSONAL USE EXCEPTION.—Subject to regulation prescribed by the Secretary, the term ‘producer’ shall not include any individual otherwise described in subparagraph (A) if the only cannabis product described in such subparagraph with respect to such individual is for personal or family use and not for sale.

"(3) IMPORTER.—The term ‘importer’ means any person who—

"(A) is in the United States and to whom non-tax-paid cannabis products, produced in a foreign country or a possession of the United States, are shipped or consigned,

"(B) removes cannabis products for sale or consumption in the United States from a customs bonded warehouse, or

"(C) smuggles or otherwise unlawfully brings any cannabis product into the United States.

"(4) EXPORT WAREHOUSE PROPRIETOR.—

"(A) IN GENERAL.—The term ‘export warehouse proprietor’ means any person who operates an export warehouse.

"(B) EXPORT WAREHOUSE.—The term ‘export warehouse’ means a bonded internal revenue warehouse for the storage of cannabis products, upon which the internal revenue tax has not been paid—

"(i) for subsequent shipment to a foreign country or a possession of the United States, or

"(ii) for consumption beyond the jurisdiction of the internal revenue laws of the United States.

"(5) CANNABIS PRODUCTION FACILITY.—The term ‘cannabis production facility’ means an establishment which is qualified under subchapter C to perform any operation for which such qualification is required under such subchapter.

"(c) OTHER DEFINITIONS.—For purposes of this chapter—

"(1) PRODUCE.—The term ‘produce’ includes any activity described in subsection (b)(2)(A).

"(2) REMOVAL; REMOVE.—The terms ‘removal’ or ‘remove’ means—

"(A) the transfer of cannabis products from the premises of a producer (or the transfer of such products from the bonded premises of a producer to a non-bonded premises of such producer),

"(B) release of such products from customs custody, or

"(C) smuggling or other unlawful importation of such products into the United States.

"(3) REMOVAL PRICE.—The term ‘removal price’ means—

"(A) except as otherwise provided in this paragraph, the price for which the cannabis product is sold in the sale which occurs in connection with the removal of such product,

"(B) in the case of any such sale which is described in section 5903(c), the price determined under such section, and

"(C) if there is no sale which occurs in connection with such removal, the price which would be determined under section 5903(c) if such product were sold at a price which cannot be determined.

"SEC. 5903. LIABILITY AND METHOD OF PAYMENT.

"(a) LIABILITY FOR TAX.—

"(1) ORIGINAL LIABILITY.—The producer or importer of any cannabis product shall be liable for the taxes imposed thereon by section 5901.

"(2) TRANSFER OF LIABILITY.—

"(A) IN GENERAL.—When cannabis products are transferred, without payment of tax, pursuant to subsection (b) or (c) of section 5904—

"(i) except as provided in clause (ii), the transferee shall become liable for the tax upon receipt by the transferee of such articles, and the transferor shall thereupon be relieved of their liability for such tax, and

"(ii) in the case of cannabis products which are released in bond from customs custody for transfer to the bonded premises of a producer, the transferee shall become liable for the tax on such articles upon release from customs custody, and the importer shall thereupon be relieved of their liability for such tax.

"(B) RETURNED TO BOND.—All provisions of this chapter applicable to cannabis products in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

"(b) METHOD OF PAYMENT OF TAX.—

"(1) IN GENERAL.—

"(A) TAXES PAID ON BASIS OF RETURN.—The taxes imposed by section 5901 shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event to be covered by such return and the information to be furnished on such return.

"(B) APPLICATION TO TRANSFEREES.—In the case of any transfer to which subsection (a)(2)(A) applies, the tax under section 5901 on the transferee shall (if not otherwise relieved by reason of a subsequent transfer to which such subsection applies) be imposed with respect to the removal of the cannabis product from the bonded premises of the transferee.

"(C) POSTPONEMENT.—Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the cannabis products where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder.

"(D) ADMINISTRATION AND PENALTIES.—All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5901.

"(2) TIME FOR PAYMENT OF TAXES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of taxes on cannabis products removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

"(B) IMPORTED ARTICLES.—In the case of cannabis products which are imported into the United States, the following provisions shall apply:

"(i) IN GENERAL.—The last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is entered into the customs territory of the United States.

"(ii) SPECIAL RULE FOR ENTRY OF WAREHOUSING.—Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the first such warehouse.

"(iii) FOREIGN TRADE ZONES.—Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

"(iv) EXCEPTION FOR ARTICLES DESTINED FOR EXPORT.—Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

"(C) CANNABIS PRODUCTS BROUGHT INTO THE UNITED STATES FROM PUERTO RICO.—In the case of cannabis products which are brought into the United States from Puerto Rico and subject to tax under section 7652, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

"(D) SPECIAL RULE WHERE DUE DATE FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

"(E) SPECIAL RULE FOR UNLAWFULLY PRODUCED CANNABIS PRODUCTS.—In the case of any cannabis products produced in the United States at any place other than the premises of a producer that has filed the bond and obtained the permit required under this chapter, tax shall be due and payable immediately upon production.

"(3) PAYMENT BY ELECTRONIC FUND TRANSFER.—Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on cannabis products by section 5901 (or section 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank. Rules similar to the rules of section 5061(e)(3) shall apply to the \$5,000,000 amount specified in the preceding sentence.

"(c) DETERMINATION OF PRICE.—

"(1) CONSTRUCTIVE SALE PRICE.—

"(A) IN GENERAL.—If an article is sold directly to consumers, sold on consignment, or sold (otherwise than through an arm's length transaction) at less than the fair market price, or if the price for which the article sold cannot be determined, the tax under section 5901(a) shall be computed on the price for which such articles are sold, in the ordinary course of trade, by producers thereof, as determined by the Secretary.

"(B) ARM'S LENGTH.—

"(i) IN GENERAL.—For purposes of this section, a sale is considered to be made under circumstances otherwise than at arm's length if—

"(I) the parties are members of the same controlled group, whether or not such control is actually exercised to influence the sale price, or

"(II) the parties are members of a family, as defined in section 267(c)(4), or

"(III) the sale is made pursuant to special arrangements between a producer and a purchaser.

"(ii) CONTROLLED GROUPS.—

"(I) IN GENERAL.—The term 'controlled group' has the meaning given to such term by subsection (a) of section 1563, except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such subsection.

"(II) CONTROLLED GROUPS WHICH INCLUDE NONINCORPORATED PERSONS.—Under regulations prescribed by the Secretary, principles similar to the principles of subclause (I) shall apply to a group of persons under common control where one or more of such persons is not a corporation.

"(2) CONTAINERS, PACKING AND TRANSPORTATION CHARGES.—In determining, for the purposes of this chapter, the price for which an article is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this chapter, whether or not stated as a separate charge. A transportation, delivery, insurance, installation, or other charge (not required by the preceding sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Secretary in accordance with regulations.

"(3) DETERMINATION OF APPLICABLE EQUIVALENT AMOUNTS.—Paragraphs (1) and (2) shall apply for purposes of section 5901(c) only to the extent that the Secretary determines appropriate.

"(d) PARTIAL PAYMENTS AND INSTALLMENT ACCOUNTS.—

"(1) PARTIAL PAYMENTS.—In the case of—

"(A) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

"(B) a conditional sale, or

"(C) a chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments, there shall be paid upon each payment with respect to the article a percentage of such payment equal to the rate of tax in effect on the date such payment is due.

"(2) SALES OF INSTALLMENT ACCOUNTS.—If installment accounts, with respect to payments on which tax is being computed as provided in paragraph (1), are sold or otherwise disposed of, then paragraph (1) shall not apply with respect to any subsequent payments on such accounts (other than subsequent payments on returned accounts with respect to which credit or refund is allowable by reason of section 6416(b)(5)), but instead—

"(A) there shall be paid an amount equal to the difference between—

"(i) the tax previously paid on the payments on such installment accounts, and

"(ii) the total tax which would be payable if such installment accounts had not been sold or otherwise disposed of (computed as provided in paragraph (1)), except that

"(B) if any such sale is pursuant to the order of, or subject to the approval of, a court of competent jurisdiction in a bankruptcy or insolvency

proceeding, the amount computed under subparagraph (A) shall not exceed the sum of the amounts computed by multiplying—

"(i) the proportionate share of the amount for which such accounts are sold which is allocable to each unpaid installment payment, by

"(ii) the rate of tax under this chapter in effect on the date such unpaid installment payment is or was due.

The sum of the amounts payable under this subsection in respect of the sale of any article shall not exceed the total tax.

"SEC. 5904. EXEMPTION FROM TAX; TRANSFERS IN BOND.

"(a) EXEMPTION FROM TAX.—Cannabis products on which the internal revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any producer in approved containers free of tax and not for resale for use—

"(1) exclusively in scientific research by a laboratory,

"(2) by a proprietor of a cannabis production facility in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to cannabis or cannabis operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue, or

"(3) by the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonconsumption purposes.

"(b) CANNABIS PRODUCTS TRANSFERRED OR REMOVED IN BOND FROM DOMESTIC FACTORIES AND EXPORT WAREHOUSES.—

"(1) IN GENERAL.—Subject to such regulations and under such bonds as the Secretary shall prescribe, a producer or export warehouse proprietor may transfer cannabis products, without payment of tax, to the bonded premises of another producer or export warehouse proprietor, or remove such articles, without payment of tax, for shipment to a foreign country or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

"(2) LABELING.—Cannabis products may not be transferred or removed under this subsection unless such products bear such marks, labels, or notices as the Secretary shall by regulations prescribe.

"(c) CANNABIS PRODUCTS RELEASED IN BOND FROM CUSTOMS CUSTODY.—Cannabis products imported or brought into the United States may be released

from customs custody, without payment of tax, for delivery to a producer or export warehouse proprietor if such articles are not put up in packages, in accordance with such regulations and under such bond as the Secretary shall prescribe.

"(d) CANNABIS PRODUCTS EXPORTED AND RETURNED.—Cannabis products classifiable under item 9801.00.10 of the Harmonized Tariff Schedule of the United States (relating to duty on certain articles previously exported and returned), as in effect on the date of the enactment of the Marijuana Opportunity Reinvestment and Expungement Act of 2021, may be released from customs custody, without payment of that part of the duty attributable to the internal revenue tax for delivery to the original producer of such cannabis products or to the export warehouse proprietor authorized by such producer to receive such products, in accordance with such regulations and under such bond as the Secretary shall prescribe. Upon such release such products shall be subject to this chapter as if they had not been exported or otherwise removed from internal revenue bond.

"SEC. 5905. CREDIT, REFUND, OR DRAWBACK OF TAX.

"(a) CREDIT OR REFUND.—

"(1) IN GENERAL.—Credit or refund of any tax imposed by this chapter or section 7652 shall be allowed or made (without interest) to the cannabis enterprise on proof satisfactory to the Secretary that the claimant cannabis enterprise has paid the tax on—

"(A) cannabis products withdrawn from the market by the claimant, or

"(B) such products lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the claimant.

"(2) CANNABIS PRODUCTS LOST OR DESTROYED IN BOND.—

"(A) EXTENT OF LOSS ALLOWANCE.—No tax shall be collected in respect of cannabis products lost or destroyed while in bond, except that such tax shall be collected—

"(i) in the case of loss by theft, unless the Secretary finds that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor of the cannabis production facility, owner, consignor, consignee, bailee, or carrier, or their employees or agents,

"(ii) in the case of voluntary destruction, unless such destruction is carried out as provided in paragraph (3), and

"(iii) in the case of an unexplained shortage of cannabis products.

"(B) PROOF OF LOSS.—In any case in which cannabis products are lost or destroyed, whether by theft or otherwise, the Secretary may require the

proprietor of a cannabis production facility or other person liable for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be upon the proprietor of the cannabis production facility or other person responsible for the tax under section 5901 to establish to the satisfaction of the Secretary that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor of the cannabis production facility, owner, consignor, consignee, bailee, or carrier, or their employees or agents.

"(C) REFUND OF TAX.—In any case where the tax would not be collectible by virtue of subparagraph (A), but such tax has been paid, the Secretary shall refund such tax.

"(D) LIMITATIONS.—Except as provided in subparagraph (E), no tax shall be abated, remitted, credited, or refunded under this paragraph where the loss occurred after the tax was determined. The abatement, remission, credit, or refund of taxes provided for by subparagraphs (A) and (C) in the case of loss of cannabis products by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

"(E) APPLICABILITY.—The provisions of this paragraph shall extend to and apply in respect of cannabis products lost after the tax was determined and before completion of the physical removal of the cannabis products from the bonded premises.

"(3) VOLUNTARY DESTRUCTION.—The proprietor of a cannabis production facility or other persons liable for the tax imposed by this chapter or by section 7652 with respect to any cannabis product in bond may voluntarily destroy such products, but only if such destruction is under such supervision and under such regulations as the Secretary may prescribe.

"(4) LIMITATION.—Any claim for credit or refund of tax under this subsection shall be filed within 6 months after the date of the withdrawal from the market, loss, or destruction of the products to which the claim relates, and shall be in such form and contain such information as the Secretary shall by regulations prescribe.

"(b) DRAWBACK OF TAX.—There shall be an allowance of drawback of tax paid on cannabis products, when shipped from the United States, in accordance with such regulations and upon the filing of such bond as the Secretary shall prescribe.

"Subchapter B—Occupational Tax

"Sec. 5911. Imposition and rate of tax.

"Sec. 5912. Payment of tax.

"Sec. 5913. Provisions relating to liability for occupational taxes.

"Sec. 5914. Application to State laws.

"SEC. 5911. IMPOSITION AND RATE OF TAX.

"(a) IN GENERAL.—Any person engaged in business as a producer or an export warehouse proprietor shall pay a tax of \$1,000 per year (referred to in this subchapter as an 'occupational tax') in respect of each premises at which such business is carried on.

"(b) PENALTY FOR FAILURE TO REGISTER.—Any person engaged in business as a producer or an export warehouse proprietor who willfully fails to pay the occupation tax shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both, for each such offense.

"SEC. 5912. PAYMENT OF TAX.

"(a) CONDITION PRECEDENT TO CARRYING ON BUSINESS.—No person shall be engaged in or carry on any trade or business subject to the occupational tax until such person has paid such tax.

"(b) COMPUTATION.—

"(1) IN GENERAL.—The occupational tax shall be imposed—

"(A) as of on the first day of July in each year, or

"(B) on commencing any trade or business on which such tax is imposed.

"(2) PERIOD.—In the case of a tax imposed under subparagraph (A) of paragraph (1), the occupational tax shall be reckoned for 1 year, and in the case of subparagraph (B) of such paragraph, it shall be reckoned proportionately, from the first day of the month in which the liability to such tax commenced, to and including the 30th day of June following.

"(c) METHOD OF PAYMENT.—

"(1) PAYMENT BY RETURN.—The occupational tax shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.

"(2) STAMP DENOTING PAYMENT OF TAX.—After receiving a properly executed return and remittance of any occupational tax, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period.

"SEC. 5913. PROVISIONS RELATING TO LIABILITY FOR OCCUPATIONAL TAXES.

"(a) PARTNERS.—Any number of persons doing business in partnership at any one place shall be required to pay a single occupational tax.

"(b) DIFFERENT BUSINESSES OF SAME OWNERSHIP AND LOCATION.—Whenever more than one of the pursuits or occupations described in this subchapter are carried on in the same place by the same person at the same time, except as otherwise provided in this subchapter, the occupational tax shall be paid for each according to the rates severally prescribed.

"(c) BUSINESSES IN MORE THAN ONE LOCATION.—

"(1) LIABILITY FOR TAX.—The payment of the occupational tax shall not exempt from an additional occupational tax the person carrying on a trade or business in any other place than that stated in the records of the Internal Revenue Service.

"(2) STORAGE.—Nothing contained in paragraph (1) shall require imposition of an occupational tax for the storage of cannabis products at a location other than the place where such products are sold or offered for sale.

"(3) PLACE.—

"(A) IN GENERAL.—For purposes of this section, the term ‘place’ means the entire office, plant or area of the business in any one location under the same proprietorship.

"(B) DIVISIONS.—For purposes of this paragraph, any passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed sufficient separation to require an additional occupational tax, if the various divisions are otherwise contiguous.

"(d) DEATH OR CHANGE OF LOCATION.—

"(1) IN GENERAL.—In addition to the person who has paid the occupational tax for the carrying on of any business at any place, any person described in paragraph (2) may secure the right to carry on, without incurring any additional occupational tax, the same business at the same place for the remainder of the taxable period for which the occupational tax was paid.

"(2) ELIGIBLE PERSONS.—The persons described in this paragraph are the following:

"(A) The surviving spouse or child, or executor or administrator or other legal representative, of a deceased taxpayer.

"(B) A husband or wife succeeding to the business of his or her living spouse.

"(C) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

"(D) The partner or partners remaining after death or withdrawal of a member of a partnership.

"(3) CHANGE OF LOCATION.—When any person moves to any place other than the place for which occupational tax was paid for the carrying on of any business, such person may secure the right to carry on, without incurring additional occupational tax, the same business at the new location for the remainder of the taxable period for which the occupational tax was paid. To secure the right to carry on the business without incurring additional occupational tax, the successor, or the person relocating their business, must register the succession or relocation with the Secretary in accordance with regulations prescribed by the Secretary.

"(e) FEDERAL AGENCIES OR INSTRUMENTALITIES.—Any tax imposed by this subchapter shall apply to any agency or instrumentality of the United States unless such agency or instrumentality is granted by statute a specific exemption from such tax.

"SEC. 5914. APPLICATION TO STATE LAWS.

"The payment of any tax imposed by this subchapter for carrying on any trade or business shall not be held to—

"(1) exempt any person from any penalty or punishment provided by the laws of any State for carrying on such trade or business within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law, or

"(2) prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

"Subchapter C—Bond and Permits

"Sec. 5921. Establishment and bond.

"Sec. 5922. Application for permit.

"Sec. 5923. Permit.

"SEC. 5921. ESTABLISHMENT AND BOND.

"(a) PROHIBITION ON PRODUCTION OUTSIDE OF BONDED CANNABIS PRODUCTION FACILITY.—

"(1) IN GENERAL.—Except as authorized by the Secretary or on the bonded premises of a cannabis production facility duly authorized to produce cannabis products according to law, no cannabis product may be planted, cultivated, harvested, grown, manufactured, produced, compounded, converted, processed, prepared, or packaged in any building or on any premises.

"(2) AUTHORIZED PRODUCERS ONLY.—No person other than a producer which has filed the bond required under subsection (b) and received a permit described in section 5923 may produce any cannabis product.

"(3) PERSONAL USE EXCEPTION.—This subsection shall not apply with respect to the activities of an individual who is not treated as a producer by reason of section 5902(b)(2)(B).

"(b) BOND.—

"(1) WHEN REQUIRED.—Every person, before commencing business as a producer or an export warehouse proprietor, shall file such bond, conditioned upon compliance with this chapter and regulations issued thereunder, in such form, amount, and manner as the Secretary shall by regulation prescribe. A new or additional bond may be required whenever the Secretary considers such action necessary for the protection of the revenue.

"(2) APPROVAL OR DISAPPROVAL.—No person shall engage in such business until he receives notice of approval of such bond. A bond may be disapproved, upon notice to the principal on the bond, if the Secretary determines that the bond is not adequate to protect the revenue.

"(3) CANCELLATION.—Any bond filed hereunder may be canceled, upon notice to the principal on the bond, whenever the Secretary determines that the bond no longer adequately protects the revenue.

"SEC. 5922. APPLICATION FOR PERMIT.¹⁴

"(a) IN GENERAL.—Every person, before commencing business as a cannabis enterprise, and at such other time as the Secretary shall by regulation prescribe, shall make application for the permit provided for in section 5923. The application shall be in such form as the Secretary shall prescribe and shall set forth, truthfully and accurately, the information called for on the form. Such application may be rejected and the permit denied if the Secretary, after notice and opportunity for hearing, finds that—

¹⁴ The Parabola Center considers the structure of regulation of the cannabis industry to be a civil rights and racial and economic justice concern. Therefore, instead of placing permitting authority under the Secretary of the Treasury, the sections and authority regarding permitting have been moved to the independent Office of Cannabis Justice, within the Justice Department, as part of a comprehensive and unified regulatory structure, centered on equity and justice.

"(1) the premises on which it is proposed to conduct the cannabis enterprise are not adequate to protect the revenue, or

"(2) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) has failed to disclose any material information required or made any material false statement in the application therefor.

"SEC. 5923. PERMIT.

"(a) **ISSUANCE.**—A person shall not engage in business as a cannabis enterprise without a permit to engage in such business. Such permit, conditioned upon compliance with this chapter and regulations issued thereunder, shall be issued in such form and in such manner as the Secretary shall by regulation prescribe. A new permit may be required at such other time as the Secretary shall by regulation prescribe.

"(b) **SUSPENSION OR REVOCATION.**—

"(1) **SHOW CAUSE HEARING.**—If the Secretary has reason to believe that any person holding a permit—

"(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

"(B) has violated the conditions of such permit,

"(C) has failed to disclose any material information required or made any material false statement in the application for such permit, or "(D) has failed to maintain their premises in such manner as to protect the revenue, the Secretary shall issue an order, stating the facts charged, citing such person to show cause why their permit should not be suspended or revoked.

"(2) **ACTION FOLLOWING HEARING.**—If, after hearing, the Secretary finds that such person has not shown cause why their permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.

"(c) **INFORMATION REPORTING.**—The Secretary may require—

"(1) information reporting by any person issued a permit under this section, and "(2) information reporting by such other persons as the Secretary deems necessary to carry out this chapter.

"(d) **INSPECTION OR DISCLOSURE OF INFORMATION.**—For rules relating to inspection and disclosure of returns and return information, see section 6103(o).

"Subchapter D—Operations

"Sec. 5931. Inventories, reports, and records. "Sec. 5932. Packaging and labeling.

"Sec. 5933. Purchase, receipt, possession, or sale of cannabis products after removal.

"Sec. 5934. Restrictions relating to marks, labels, notices, and packages.

"Sec. 5935. Restriction on importation of previously exported cannabis products.

"SEC. 5931. INVENTORIES, REPORTS, AND RECORDS.

"Every cannabis enterprise shall—

"(1) make a true and accurate inventory at the time of commencing business, at the time of concluding business, and at such other times, in such manner and form, and to include such items, as the Secretary shall by regulation prescribe, with such inventories to be subject to verification by any internal revenue officer,

"(2) make reports containing such information, in such form, at such times, and for such periods as the Secretary shall by regulation prescribe, and

"(3) keep such records in such manner as the Secretary shall by regulation prescribe, with such records to be available for inspection by any internal revenue officer during business hours.

~~"SEC. 5932. PACKAGING AND LABELING.~~

~~"(a) PACKAGES.—All cannabis products shall, before removal, be put up in such packages as the Secretary shall by regulation prescribe.~~

~~"(b) MARKS, LABELS, AND NOTICES.—Every package of cannabis products shall, before removal, bear the marks, labels, and notices if any, that the Secretary by regulation prescribes.~~

~~"(c) LOTTERY FEATURES.—No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of cannabis products.~~

~~"(d) INDECENT OR IMMORAL MATERIAL PROHIBITED.—No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of cannabis products.~~

~~"(e) EXCEPTIONS.—Subject to regulations prescribed by the Secretary, cannabis products may be exempted from subsections (a) and (b) if such products are—~~

~~"(1) for experimental purposes, or~~

~~"(2) transferred to the bonded premises of another producer or export warehouse proprietor or released in bond from customs custody for delivery to a producer.~~

"SEC. 5933. PURCHASE, RECEIPT, POSSESSION, OR SALE OF CANNABIS PRODUCTS AFTER REMOVAL.

"(a) RESTRICTION.—No person shall—

"(1) with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any cannabis products—

"(A) upon which the tax has not been paid or determined in the manner and at the time prescribed by this chapter or regulations thereunder, or

"(B) which, after removal without payment of tax pursuant to section 5904(a), have been diverted from the applicable purpose or use specified in that section,

"(2) with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any cannabis products which are not put up in packages as required under section 5932 or which are put up in packages not bearing the marks, labels, and notices, as required under such section, or

"(3) otherwise than with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any cannabis products which are not put up in packages as required under section 5932 or which are put up in packages not bearing the marks, labels, and notices, as required under such section.

"(b) EXCEPTION.—Paragraph (3) of subsection (a) shall not prevent the sale or delivery of cannabis products directly to consumers from proper packages, nor apply to such articles when so sold or delivered.

"(c) LIABILITY TO TAX.—Any person who possesses cannabis products in violation of paragraph (1) or (2) of subsection (a) shall be liable for a tax equal to the tax on such articles.

"SEC. 5934. RESTRICTIONS RELATING TO MARKS, LABELS, NOTICES, AND PACKAGES.

"No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of cannabis products before such package is emptied.

"SEC. 5935. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED CANNABIS PRODUCTS.

"(a) EXPORT LABELED CANNABIS PRODUCTS.—

"(1) IN GENERAL.—Cannabis products produced in the United States and labeled for exportation under this chapter—

"(A) may be transferred to or removed from the premises of a producer or an export warehouse proprietor only if such articles are being transferred or removed without tax in accordance with section 5904,

"(B) may be imported or brought into the United States, after their exportation, only if such articles either are eligible to be released from customs custody with the partial duty exemption provided in section 5904(d) or are returned to the original producer of such article as provided in section 5904(c), and

"(C) may not be sold or held for sale for domestic consumption in the United States unless such articles are removed from their export packaging and repackaged by the original producer into new packaging that does not contain an export label.

"(2) ALTERATIONS BY PERSONS OTHER THAN ORIGINAL PRODUCER.—This section shall apply to articles labeled for export even if the packaging or the appearance of such packaging to the consumer of such articles has been modified or altered by a person other than the original producer so as to remove or conceal or attempt to remove or conceal (including by the placement of a sticker over) any export label.

"(3) EXPORTS INCLUDE SHIPMENTS TO PUERTO RICO.—For purposes of this section, section 5904(d), section 5941, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

"(b) EXPORT LABEL.—For purposes of this section, an article is labeled for export or contains an export label if it bears the mark, label, or notice required under section 5904(b).

"Subchapter E—Penalties

"Sec. 5941. Civil penalties.

"Sec. 5942. Criminal penalties.

"SEC. 5941. CIVIL PENALTIES.

"(a) OMITTING THINGS REQUIRED OR DOING THINGS FORBIDDEN.—Whoever willfully omits, neglects, or refuses to comply with any duty imposed upon them by

this chapter, or to do, or cause to be done, any of the things required by this chapter, or does anything prohibited by this chapter, shall in addition to any other penalty provided in this title, be liable to a penalty of \$10,000, to be recovered, with costs of suit, in a civil action, except where a penalty under subsection (b) or (c) or under section 6651 or 6653 or part II of subchapter A of chapter 68 may be collected from such person by assessment.

"(b) **FAILURE TO PAY TAX.**—Whoever fails to pay any tax imposed by this chapter at the time prescribed by law or regulations, shall, in addition to any other penalty provided in this title, be liable to a penalty of 10 percent of the tax due but unpaid.

"(c) **SALE OF CANNABIS OR CANNABIS PRODUCTS FOR EXPORT.**—

"(1) Every person who sells, relands, or receives within the jurisdiction of the United States any cannabis products which have been labeled or shipped for exportation under this chapter,

"(2) every person who sells or receives such relanded cannabis products, and

"(3) every person who aids or abets in such selling, relanding, or receiving, shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of \$10,000 or 10 times the amount of the tax imposed by this chapter. All cannabis products relanded within the jurisdiction of the United States shall be forfeited to the United States and destroyed. All vessels, vehicles, and aircraft used in such relanding or in removing such cannabis products from the place where relanded, shall be forfeited to the United States.

"(d) **APPLICABILITY OF SECTION 6665.**—The penalties imposed by subsections (b) and (c) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

"(e) **CROSS REFERENCES.**—For penalty for failure to make deposits or for overstatement of deposits, see section 6656.

"SEC. 5942. CRIMINAL PENALTIES.

"(a) **FRAUDULENT OFFENSES.**—Whoever, with intent to defraud the United States—

"(1) engages in business as a cannabis enterprise without filing the application and obtaining the permit where required by this chapter or regulations thereunder,

"(2) fails to keep or make any record, return, report, or inventory, or keeps or makes any false or fraudulent record, return, report, or inventory, required by this chapter or regulations thereunder,

"(3) refuses to pay any tax imposed by this chapter, or attempts in any manner to evade or defeat the tax or the payment thereof,

"(4) sells or otherwise transfers, contrary to this chapter or regulations thereunder, any cannabis products subject to tax under this chapter, or

"(5) purchases, receives, or possesses, with intent to redistribute or resell, any cannabis product—

"(A) upon which the tax has not been paid or determined in the manner and at the time prescribed by this chapter or regulations thereunder, or

"(B) which, without payment of tax pursuant to section 5904, have been diverted from the applicable purpose or use specified in that section, shall, for each such offense, be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

"(b) LIABILITY TO TAX.—Any person who possesses cannabis products in violation of subsection (a) shall be liable for a tax equal to the tax on such articles."

(c) STUDY.—Not later than 2 years after the date of the enactment of this Act, and every 5 years thereafter, the Secretary of the Treasury, or the Secretary's delegate, shall—

(1) conduct a study concerning the characteristics of the cannabis industry, including the number of persons operating cannabis enterprises at each level of such industry, the volume of sales, the amount of tax collected each year, and the areas of evasion, and

(2) submit to Congress recommendations to improve the regulation of the industry and the administration of the related tax.

(d) ANNUAL REPORTS REGARDING DETERMINATION OF APPLICABLE RATES.—Not later than 6 months before the beginning of each calendar year to which section 5901(a)(2) of the Internal Revenue Code of 1986 (as added by this section) applies, the Secretary of the Treasury, or the Secretary's delegate, shall make publicly available a detailed description of the methodology which the Secretary anticipates using to determine the applicable rate per ounce and the applicable rate per gram which will apply for such calendar year under section 5901(c)(2) of such Code.

(e) CONFORMING AMENDMENTS.—

(1) Section 6103(o)(1)(A) of the Internal Revenue Code of 1986 is amended by striking "and firearms" and inserting "firearms, and cannabis products".

(2) The table of chapters for subtitle E of such Code is amended by adding at the end the following new item:

"CHAPTER 56. CANNABIS PRODUCTS".

(3) The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

"Sec. 9512. Opportunity Trust Fund."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to removals, and applications for permits under section 5922 of the Internal Revenue Code of 1986 (as added by subsection (b)), after 180 days after the date of the enactment of this Act.

(2) ESTABLISHMENT OF TRUST FUND.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6. OPPORTUNITY TRUST FUND PROGRAMS.

(a) ~~CANNABIS JUSTICE OFFICE; COMMUNITY REINVESTMENT GRANT PROGRAM.—~~

(1) ~~CANNABIS JUSTICE OFFICE.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10101 et seq.) is amended by inserting after section 109 the following:~~

~~"SEC. 110. CANNABIS JUSTICE OFFICE.~~

~~"(a)—ESTABLISHMENT.—There is established within the Office of Justice Programs a Cannabis Justice Office.~~

~~"(b)—DIRECTOR.—The Cannabis Justice Office shall be headed by a Director who shall be appointed by the Assistant Attorney General for the Office of Justice Programs. The Director shall report to the Assistant Attorney General for the Office of Justice Programs. The Director shall award grants and may enter into compacts, cooperative agreements, and contracts on behalf of the Cannabis Justice Office. The Director may not engage in any employment other than that of serving as the Director, nor may the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement.~~

~~"(c)—EMPLOYEES.—~~

~~"(1)—IN GENERAL.—The Director shall employ as many full-time employees as are needed to carry out the duties and functions of the Cannabis Justice Office under subsection (d). Such employees shall be exclusively assigned to the Cannabis Justice Office.~~

~~"(2)—INITIAL HIRES.—Not later than 6 months after the date of enactment of this section, the Director shall—~~

~~"(A)—hire no less than one-third of the total number of employees of the Cannabis Justice Office; and "(B) no more than one-half of the employees—~~

~~assigned to the Cannabis Justice Office by term appointment that may after 2 years be converted to career appointment.~~

~~"(3) — LEGAL COUNSEL. — At least one employee hired for the Cannabis Justice Office shall serve as legal counsel to the Director and shall provide counsel to the Cannabis Justice Office.~~

~~"(d) — DUTIES AND FUNCTIONS. — The Cannabis Justice Office is authorized to —~~

~~"(1) — administer the Community Reinvestment Grant Program; and "(2) perform such other functions as the Assistant Attorney General for the Office of Justice Programs may delegate, that are consistent with the statutory obligations of this section."~~

(2) COMMUNITY REINVESTMENT GRANT PROGRAM.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. et seq.) is amended by adding at the end the following:

"PART OO—COMMUNITY REINVESTMENT GRANT PROGRAM

"SEC. 3052. AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Cannabis Justice Office shall establish and carry out a grant program, known as the ‘Community Reinvestment Grant Program’, to provide eligible entities with funds to administer services for individuals adversely impacted by the War on Drugs, including—

"(1) job training;

"(2) reentry services;

"(3) legal aid for civil and criminal cases, including expungement of cannabis convictions;

"(4) literacy programs;

"(5) youth recreation or mentoring programs; and

"(6) health education programs.

"(b) SUBSTANCE USE DISORDER SERVICES.—The Director, in consultation with the Secretary of Health and Human Services, shall provide eligible entities with funds to administer substance use disorder services for individuals adversely impacted by the War on Drugs or connect patients with substance use disorder services. Also eligible for such services are individuals who have been arrested for or convicted of the sale, possession, use, manufacture, or cultivation of a controlled substance other than cannabis (except for a conviction involving distribution to a minor).

"SEC. 3053. FUNDING FROM OPPORTUNITY TRUST FUND.

"The Director shall carry out the program under this part using funds made available under section 9512(c)(1) and (2) of the Internal Revenue Code.

"SEC. 3054. DEFINITIONS.

"In this part:

"(1) The term 'cannabis conviction' means a conviction, or adjudication of juvenile delinquency, for a cannabis offense (as such term is defined in section 13 of the Marijuana Opportunity Reinvestment and Expungement Act of 2021).

"(2) The term 'eligible entity' means a nonprofit organization, as defined in section 501(c)(3) of the Internal Revenue Code, that is representative of a community or a significant segment of a community with experience in providing relevant services to individuals adversely impacted by the War on Drugs in that community.

"(3) The term 'individuals adversely impacted by the War on Drugs' has the meaning given that term in section 6 of the Marijuana Opportunity Reinvestment and Expungement Act of 2021".

(b) CANNABIS RESTORATIVE OPPORTUNITY PROGRAM; EQUITABLE LICENSING GRANT PROGRAM.—

(1) CANNABIS RESTORATIVE OPPORTUNITY PROGRAM.—The Administrator of the Small Business Administration shall establish and carry out a program, to be known as the "Cannabis Restorative Opportunity Program", to provide loans and technical assistance under section 7(m) of the Small Business Act (15 U.S.C. 636(m)) to assist small business concerns owned and controlled by socially and economically disadvantaged individuals that operate in eligible States or localities.

(2) EQUITABLE LICENSING GRANT PROGRAM.—The Administrator of the Small Business Administration shall establish and carry out a grant program, to be known as the "Equitable Licensing Grant Program", to provide any eligible State or locality funds to develop and implement equitable cannabis licensing programs that minimize barriers to cannabis licensing and employment for individuals adversely impacted by the War on Drugs, provided that each grantee includes in its cannabis licensing program at least four of the following elements:

(A) A waiver of cannabis license application fees for individuals who report an income below 250 percent of the Federal Poverty Level for at least 5 of the past 10 years and who are first-time applicants for a cannabis license.

(B) A prohibition on the denial of a cannabis license based on a conviction for a cannabis offense that took place prior to State legalization of cannabis or the date of enactment of this Act, as appropriate.

(C) A prohibition on restrictions for licensing relating to criminal convictions except with respect to a criminal conviction related to owning and operating a business.

(D) A prohibition on cannabis license holders engaging in suspicionless cannabis drug testing of their prospective or current employees, except with respect to drug testing for safety-sensitive positions required under part 40 of title 49, Code of Federal Regulations.

(E) The establishment of a cannabis licensing board that is reflective of the racial, ethnic, economic, and gender composition of the eligible State or locality, to serve as an oversight body of the equitable licensing program.

(3) **DEFINITIONS.**—In this subsection:

(A) **ELIGIBLE STATE OR LOCALITY.**—The term "eligible State or locality" means a State or locality that has taken steps to—

(i) create an automatic process, at no cost to the individual, for the expungement, destruction, or sealing of criminal records for cannabis offenses; and

(ii) eliminate violations or other penalties for persons under parole, probation, pre-trial, or other State or local criminal supervision for a cannabis offense.

(B) **INDIVIDUAL ADVERSELY IMPACTED BY THE WAR ON DRUGS.**—The term "individual adversely impacted by the War on Drugs" means an individual—

(i) who reports an income below 250 percent of the Federal Poverty Level for at least 5 of the past 10 years; and

(ii) who has been arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis (except for a conviction involving distribution to a minor), or whose parent, sibling, spouse, or child has been arrested for or convicted of such an offense.

(C) **SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.**—The term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the meaning given in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

(D) **STATE.**—The term "State" means each of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, and any Indian Tribe (as defined in section 201 of Public Law 90–294 (25 U.S.C. 1301) (commonly known as the "Indian Civil Rights Act of 1968")).

(c) STUDY ON PROGRAMS.—

(1) GAO STUDY.—The Comptroller General of the United States, in consultation with the Administrator of the Small Business Administration, shall conduct an annual study on the individuals and entities receiving assistance under the Cannabis Restorative Opportunity and Equitable Licensing Programs. This study shall include the types of assistance by state, and a description of the efforts by the Small Business Administration to increase access to capital for cannabis-related small business concerns owned and controlled by socially and economically disadvantaged individuals, individuals adversely impacted by the War on Drugs, as well as the racial, ethnic, economic and gender composition of the eligible State or locality.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under paragraph (1) to—

- (A) the Committee on Small Business of the House of Representatives;
- (B) the Committee on Small Business and Entrepreneurship of the Senate;
- (C) the Committee on the Judiciary of the House of Representatives; and
- (D) the Committee on the Judiciary of the Senate.

NEW SECTION 7, ADOPTED FROM THE MARIJUANA JUSTICE ACT AND RESTRICTING FUNDING TO THOSE STATES WITH DISPROPORTIONATE CANNABIS RELATED ARREST RATES.¹⁵

Section 7. INELIGIBILITY FOR CERTAIN FUNDS.

(a) Definitions.-- In this section—

(1) the term "covered State" means a State that has not enacted a statute legalizing marijuana in the State;

(2) the term "disproportionate arrest rate" means-

(A) the percentage of minority individuals arrested for a marijuana related offense in a State is higher than the percentage of the non-minority individual population of the State, as determined by the most recent census data; or

¹⁵ The Parabola Center recommends that models for more strongly tying federal funding related to criminal justice to clear racial justice benchmarks should be considered and incorporated into the MORE Act to the fullest extent possible. We incorporate the Marijuana Justice Act as one important model to consider.

(B) the percentage of low-income individuals arrested for a marijuana offense in a State is higher than the percentage of the population of the State that are not low-income individuals, as determined by the most recent census data;

(3) the term "disproportionate incarceration rate" means the percentage of minority individuals incarcerated for a marijuana related offense in a State is higher than the percentage of the non-minority individual population of the State, as determined by the most recent census data;

(4) the term "low-income individual" means an individual whose taxable income (as defined in section 63 of the Internal Revenue Code of 1986) is equal to or below the maximum dollar amount for the 15 percent rate bracket applicable to the individual under section 1 of the Internal Revenue Code of 1986;

(5) the term "marijuana" has the meaning given the term "marihuana" in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(6) the term "minority individual" means an individual who is a member of a racial or ethnic minority group.

(b) Ineligibility for Certain Funds.-

(1) In general.--For any fiscal year beginning after the date of enactment of this Act in which the Director of the Office of Cannabis Justice, in consultation with the Director of the Bureau of Justice Assistance, determines that a covered State has a disproportionate arrest rate or a disproportionate incarceration rate for marijuana offenses, the covered State-

(A) shall not be eligible to receive any Federal funds for the construction or staffing of a prison or jail; and

(B) shall be subject to not more than a 10-percent reduction of the funds that would otherwise be allocated for that fiscal year to the covered State under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.), whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Local Government Law Enforcement Block Grants Program, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(2) Funds for certain programming.--For purposes of paragraph (1)(A), Federal funds for the construction or staffing of a prison or jail shall not include Federal funds used by a prison or jail to carry out recidivism reduction programming or drug addiction treatment.

(3) Reallocation.--Any amounts not awarded to a covered State because of a determination under paragraph (1) shall be deposited in the Community Reinvestment Grant Program established under section 6.

SEC. 7. AVAILABILITY OF SMALL BUSINESS ADMINISTRATION PROGRAMS AND SERVICES TO CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.

(a) DEFINITIONS RELATING TO CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(gg) CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.—In this Act:

"(1) CANNABIS.—The term ‘cannabis’—

"(A) means—

"(i) all parts of the plant *Cannabis sativa* L., whether growing or not;

"(ii) the seeds thereof;

"(iii) the resin extracted from any part of such plant; and

"(iv) every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin; and

"(B) does not include—

"(i) hemp, as defined in section 297A of the Agricultural Marketing Act of 1946;

"(ii) the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination; or

"(iii) any drug product approved under section 505 of the Federal Food, Drug, and Cosmetic Act, or biological product licensed under section 351 of the Public Health Service Act.

"(2) CANNABIS-RELATED LEGITIMATE BUSINESS.—The term ‘cannabis-related legitimate business’ means a manufacturer, producer, or any person or company that is a small business concern and that—

"(A) engages in any activity described in subparagraph (B) pursuant to a law established by a State or a political subdivision of a State, as determined by such State or political subdivision; and

"(B) participates in any business or organized activity that involves handling cannabis or cannabis products, including cultivating, producing, manufacturing, selling, transporting, displaying, dispensing, distributing, or purchasing cannabis or cannabis products.

"(3) SERVICE PROVIDER.—The term ‘service provider’—

"(A) means a business, organization, or other person that—

"(i) sells goods or services to a cannabis-related legitimate business; or

"(ii) provides any business services, including the sale or lease of real or any other property, legal or other licensed services, or any other ancillary service, relating to cannabis; and

"(B) does not include a business, organization, or other person that participates in any business or organized activity that involves handling cannabis or cannabis products, including cultivating, producing, manufacturing, selling, transporting, displaying, dispensing, distributing, or purchasing cannabis or cannabis products."

(b) SMALL BUSINESS DEVELOPMENT CENTERS.—Section 21(c) of the Small Business Act (15 U.S.C. 648(c)) is amended by adding at the end the following new paragraph:

"(9) SERVICES FOR CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.— A small business development center may not decline to provide services to an otherwise eligible small business concern under this section solely because such concern is a cannabis-related legitimate business or service provider."

(c) WOMEN’S BUSINESS CENTERS.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following new subsection:

"(p) SERVICES FOR CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.—A women’s business center may not decline to provide services to an otherwise eligible small business concern under this section solely because such concern is a cannabis-related legitimate business or service provider."

(d) SCORE.—Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)) is amended by adding at the end the following new sentence: "The head of the SCORE program established under this subparagraph may not decline to provide services to an otherwise eligible small business concern solely because such concern is a cannabis-related legitimate business or service provider."

(e) VETERAN BUSINESS OUTREACH CENTERS.—Section 32 of the Small Business Act (15 U.S.C. 657b) is amended by adding at the end the following new subsection:

"(h) SERVICES FOR CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.—A Veteran Business Outreach Center may not decline to provide services to an otherwise eligible small business concern under this section solely because such concern is a cannabis-related legitimate business or service provider."

(f) SECTION 7(a) LOANS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(38) LOANS TO CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.—The Administrator may not decline to provide a guarantee for a loan under this subsection, and a lender may not decline to make a loan under this subsection, to an otherwise eligible small business concern solely because such concern is a cannabis-related legitimate business or service provider."

(g) DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) ASSISTANCE TO CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.— The Administrator may not decline to provide assistance under this subsection to an otherwise eligible small business concern solely because such concern is a cannabis-related legitimate business or service provider."

(h) MICROLOANS.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(14) ASSISTANCE TO CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.— The Administrator may not decline to make a loan or a grant under this subsection, and an eligible intermediary may not decline to provide assistance under this subsection to an otherwise eligible borrower, eligible intermediary, or eligible nonprofit entity (as applicable) solely because such borrower, intermediary, or nonprofit entity is a cannabis-related legitimate business or service provider."

(i) SMALL BUSINESS INVESTMENT COMPANY DEBENTURES TO FINANCE CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.—Part A of title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding at the end the following new section:

"SEC. 321. DEBENTURES TO FINANCE CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.

"(a) GUARANTEES.—The Administrator may not decline to purchase or guarantee a debenture made under this title to an otherwise eligible small business investment company solely because such small business investment company provides financing to an entity that is a cannabis-related legitimate business or service provider (as defined in section 7(a)(38) of the Small Business Act).

"(b) OTHER ASSISTANCE.—A small business investment company may not decline to provide assistance under this title to an otherwise eligible small business concern solely because such small business concern is a cannabis-related legitimate business or service provider (as defined in section 7(a)(38) of the Small Business Act)."

(j) STATE OR LOCAL DEVELOPMENT COMPANY LOANS.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 511. LOANS TO FINANCE CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.

"(a) LOANS AND LOAN GUARANTEES.—The Administrator may not decline to make or provide a guarantee for a loan under this title to an otherwise eligible qualified State or local development company solely because such qualified State or local development company provides financing to an entity that is a cannabis-related legitimate business or service provider (as defined in section 7(a)(38) of the Small Business Act).

"(b) OTHER ASSISTANCE.—A qualified State or local development company may not decline to provide assistance under this title to an otherwise eligible small business concern solely because such small business concern is a cannabis-related legitimate business or service provider (as defined in section 7(a)(38) of the Small Business Act)."

SEC. 8. NO DISCRIMINATION IN THE PROVISION OF A FEDERAL PUBLIC BENEFIT ON THE BASIS OF CANNABIS.

(a) IN GENERAL.—No person may be denied any Federal public benefit (as such term is defined in section 401(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(c))) on the basis of any use or possession of cannabis, or on the basis of a conviction or adjudication of juvenile delinquency for a cannabis offense, by that person.

(b) SECURITY CLEARANCES.—Federal agencies may not use past or present cannabis or marijuana use as criteria for granting, denying, or rescinding a security clearance.

SEC. 9. NO ADVERSE EFFECT FOR PURPOSES OF THE IMMIGRATION LAWS.

(a) IN GENERAL.—For purposes of the immigration laws (as such term is defined in section 101 of the Immigration and Nationality Act), cannabis may not be considered a controlled substance, and an alien may not be denied any benefit or protection under the immigration laws based on any event, including conduct, a finding, an admission, addiction or abuse, an arrest, a juvenile adjudication, or a conviction, relating to cannabis, regardless of whether the event occurred before, on, or after the effective date of this Act.

(b) CANNABIS DEFINED.—The term "cannabis"—

(1) means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin; and

(2) does not include—

(A) hemp, as defined in section 297A of the Agricultural Marketing Act of 1946;

(B) the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination; or

(C) any drug product approved under section 505 of the Federal Food, Drug, and Cosmetic Act, or biological product licensed under section 351 of the Public Health Service Act.

(c) CONFORMING AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 212(h), by striking "and subparagraph (A)(i)(II) of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana";

(2) in section 237(a)(2)(B)(i), by striking "other than a single offense involving possession for one's own use of 30 grams or less of marijuana";

(3) in section 101(f)(3), by striking "(except as such paragraph relates to a single offense of simple possession of 30 grams or less of marihuana)";

(4) in section 244(c)(2)(A)(iii)(II) by striking "except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana";

(5) in section 245(h)(2)(B) by striking "(except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana)";

(6) in section 210(c)(2)(B)(ii)(III) by striking ", except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana"; and

(7) in section 245A(d)(2)(B)(ii)(II) by striking ", except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana".

SEC. 10. RESENTENCING AND EXPUNGEMENT.

(a) EXPUNGEMENT OF NON-VIOLENT FEDERAL CANNABIS OFFENSE CONVICTIONS FOR INDIVIDUALS NOT UNDER A CRIMINAL JUSTICE SENTENCE.—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, each Federal district shall conduct a comprehensive review and issue an order expunging each conviction or adjudication of juvenile delinquency for a non-violent Federal cannabis offense entered by each Federal court in the district before the date of enactment of this Act and on or after May 1, 1971. Each Federal court shall also issue an order expunging any arrests associated with each expunged conviction or adjudication of juvenile delinquency.

(2) **NOTIFICATION.**—To the extent practicable, each Federal district shall notify each individual whose arrest, conviction, or adjudication of delinquency has been expunged pursuant to this subsection that their arrest, conviction, or adjudication of juvenile delinquency has been expunged, and the effect of such expungement.

(3) **RIGHT TO PETITION COURT FOR EXPUNGEMENT.**—At any point after the date of enactment of this Act, any individual with a prior conviction or adjudication of juvenile delinquency for a non-violent Federal cannabis offense, who is not under a criminal justice sentence, may file a motion for expungement. If the expungement of such a conviction or adjudication of juvenile delinquency is required pursuant to this Act, the court shall expunge the conviction or adjudication, and any associated arrests. If the individual is indigent, counsel shall be appointed to represent the individual in any proceedings under this subsection.

(4) **SEALED RECORD.**—The court shall seal all records related to a conviction or adjudication of juvenile delinquency that has been expunged under this subsection. Such records may only be made available by further order of the court.

(b) SENTENCING REVIEW FOR INDIVIDUALS UNDER A CRIMINAL JUSTICE SENTENCE.—

(1) **IN GENERAL.**—For any individual who is under a criminal justice sentence for a non-violent Federal cannabis offense, the court that imposed the sentence shall, on motion of the individual, the Director of the Bureau of Prisons, the attorney for the Government, or the court, conduct a sentencing review hearing. If the individual is indigent, counsel shall be appointed to represent the individual in any sentencing review proceedings under this subsection.

(2) **POTENTIAL REDUCED RESENTENCING.**— After a sentencing hearing under paragraph (1), a court shall—

(A) expunge each conviction or adjudication of juvenile delinquency for a non-violent Federal cannabis offense entered by the court before the date of enactment of this Act, and any associated arrest;

(B) vacate the existing sentence or disposition of juvenile delinquency and, if applicable, impose any remaining sentence or disposition of juvenile delinquency on the individual as if this Act, and the amendments made by this Act, were in effect at the time the offense was committed; and

(C) order that all records related to a conviction or adjudication of juvenile delinquency that has been expunged or a sentence or disposition of juvenile delinquency that has been vacated under this Act be sealed and only be made available by further order of the court.

(c) EFFECT OF EXPUNGEMENT.—An individual who has had an arrest, a conviction, or juvenile delinquency adjudication expunged under this section—

(1) may treat the arrest, conviction, or adjudication as if it never occurred; and

(2) shall be immune from any civil or criminal penalties related to perjury, false swearing, or false statements, for a failure to disclose such arrest, conviction, or adjudication.

(d) EXCEPTION.—An individual who at sentencing received an aggravating role adjustment pursuant to United States Sentencing Guideline 3B1.1(a) in relation to a Federal cannabis offense conviction shall not be eligible for expungement of that Federal cannabis offense conviction under this section.

(e) DEFINITIONS.—In this section:

(1) The term "Federal cannabis offense" means an offense that is no longer punishable pursuant to this Act or the amendments made under this Act.

(2) The term "expunge" means, with respect to an arrest, a conviction, or a juvenile delinquency adjudication, the removal of the record of such arrest, conviction, or adjudication from each official index or public record.

(3) The term "under a criminal justice sentence" means, with respect to an individual, that the individual is serving a term of probation, parole, supervised release, imprisonment, official detention, pre-release custody, or work release, pursuant to a sentence or disposition of juvenile delinquency imposed on or after the effective date of the Controlled Substances Act (May 1, 1971).

(f) STUDY.—The Comptroller General of the United States, in consultation with the Secretary of Health and Human Services, shall conduct a demographic study of individuals convicted of a Federal cannabis offense. Such study shall include information about the age, race, ethnicity, sex, and gender identity of those individuals, the type of community such users dwell in, and such other demographic information as the Comptroller General determines should be included.

(g) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report to Congress the results of the study conducted under subsection (f).

SEC. 11. REFERENCES IN EXISTING LAW TO MARIJUANA OR MARIHUANA.

Wherever, in the statutes of the United States or in the rulings, regulations, or interpretations of various administrative bureaus and agencies of the United States—

(1) there appears or may appear the term "marihuana" or "marijuana", that term shall be struck and the term "cannabis" shall be inserted; and

(2) there appears or may appear the term "Marihuana" or "Marijuana", that term shall be struck and the term "Cannabis" shall be inserted.

SEC. 12. SEVERABILITY.

If any provision of this Act or an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of this Act and the amendments made by this Act to any other person or circumstance shall not be affected.

SEC. 13. CANNABIS OFFENSE DEFINED.

For purposes of this Act, the term "cannabis offense" means a criminal offense related to cannabis—

(1) that, under Federal law, is no longer punishable pursuant to this Act or the amendments made under this Act; or

(2) that, under State law, is no longer an offense or that was designated a lesser offense or for which the penalty was reduced under State law pursuant to or following the adoption of a State law authorizing the sale or use of cannabis.

SEC. 14. RULEMAKING.

Unless otherwise provided in this Act, not later than 1 year after the date of enactment of this Act, the Department of the Treasury, the Department of Justice, and the Small Business Administration shall issue or amend any rules, standard operating procedures, and other legal or policy guidance necessary to carry out implementation of this Act. After the 1-year period, any publicly issued sub-regulatory guidance, including any compliance guides, manuals, advisories and notices, may not be issued without 60-day notice to appropriate congressional committees. Notice shall include a description and justification for additional guidance.

SEC. 15. SOCIETAL IMPACT OF MARIJUANA LEGALIZATION STUDY.

The Comptroller General of the United States shall, not later than 2 years after the date of enactment of this Act, provide to Congress a study that addresses the societal impact of the legalization of recreational cannabis by States, including—

- (1) sick days reported to employers;
- (2) workers compensations claims;
- (3) tax revenue remitted to States resulting from legal marijuana sales;
- (4) changes in government spending related to enforcement actions and court proceedings;
- (5) Federal welfare assistance applications;
- (6) rate of arrests related to methamphetamine possession;
- (7) hospitalization rates related to methamphetamine and narcotics use;
- (8) uses of marijuana and its byproducts for medical purposes;
- (9) uses of marijuana and its byproducts for purposes relating to the health, including the mental health, of veterans;
- (10) arrest rates of individuals driving under the influence or driving while intoxicated by marijuana;
- (11) traffic-related deaths and injuries where the driver is impaired by marijuana;
- (12) arrest of minors for marijuana-related charges;
- (13) violent crime rates;
- (14) school suspensions, expulsions, and law enforcement referrals that are marijuana-related;
- (15) high school dropout rates;
- (16) changes in district-wide and State-wide standardized test scores;
- (17) marijuana-related hospital admissions and poison control calls;
- (18) marijuana-related juvenile admittances into substance rehabilitation facilities and mental health clinics;

(19) diversion of marijuana into neighboring States and drug seizures in neighboring States;

(20) marijuana plants grown on public lands in contravention to Federal and State laws; and

(21) court filings under a State's organized crime statutes.

117TH CONGRESS

1ST SESSION

H. R.

To decriminalize and deschedule cannabis, to provide for reinvestment in certain persons adversely impacted by the War on Drugs, to provide for expungement of certain cannabis offenses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. NADLER introduced the following bill; which was referred to the Committee on

A BILL

To decriminalize ~~and deschedule~~ **the possession, limited home cultivation, and transfer of small amounts** of cannabis, to provide for reinvestment in certain persons adversely impacted by the War on Drugs, to provide for expungement of certain cannabis offenses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “Marijuana Opportunity Reinvestment and Expungement Act of 2021” or the “MORE Act of 2021”.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The communities that have been most harmed by cannabis prohibition are benefiting the least from the legal marijuana marketplace.

(2) A legacy of racial and ethnic injustices, compounded by the disproportionate collateral consequences of 80 years of cannabis prohibition enforcement, now limits participation in the industry.

(3) 37 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands have adopted laws allowing legal access to cannabis, and 15 States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, and Guam have adopted laws legalizing cannabis for adult recreational use.

(4) A total of 47 States have reformed their laws pertaining to cannabis despite the Schedule I status of marijuana and its Federal criminalization. **States have clearly and substantially demonstrated that commerce in cannabis may be conducted as a safe and well-regulated trade.**

(5) Legal cannabis sales totaled \$20,000,000,000 in 2020 and are projected to reach \$40,500,000,000 by 2025.

(6) According to the American Civil Liberties Union (ACLU), enforcing cannabis prohibition laws costs taxpayers approximately \$3.6 billion a year.

(7) The continued enforcement of cannabis prohibition laws results in over 600,000 arrests annually, disproportionately impacting people of color who are almost 4 times more likely to be arrested for cannabis possession than their White counterparts, despite equal rates of use across populations.

(8) People of color have been historically targeted by discriminatory sentencing practices resulting in Black men receiving drug sentences that are 13.1 percent longer than sentences imposed for White men and Latinos being nearly 6.5 times more likely to receive a Federal sentence for cannabis possession than non-Hispanic Whites.

(9) In 2013, simple cannabis possession was the fourth most common cause of deportation for any offense and the most common cause of deportation for drug law violations.

(10) Fewer than one-fifth of cannabis business owners identify as minorities and only approximately 4 percent are black.

(11) Applicants for cannabis licenses are limited by numerous laws, regulations, and exorbitant permit applications, licensing fees, and costs in these States, which can require more than \$700,000.

(12) Historically disproportionate arrest and conviction rates make it particularly difficult for people of color to enter the legal cannabis marketplace, as most States bar these individuals from participating.

(13) Federal law severely limits access to loans and capital for cannabis businesses, disproportionately impacting minority small business owners.

(14) [On the basis of well documented data](#), some States and municipalities have taken proactive steps to mitigate inequalities in the legal cannabis marketplace and ensure equal participation in the industry.

SEC. 3. DECRIMINALIZATION OF CANNABIS POSSESSION.

(a) [PENALTIES FOR CANNABIS POSSESSION](#) REMOVED FROM SCHEDULE OF CONTROLLED SUBSTANCES.—

(1) [REMOVAL OF PENALTIES](#) IN STATUTE.—Subsection [\(ea\)](#) of schedule I of section [202\(e\)404](#) of the Controlled Substances Act (21 U.S.C. [812844](#)) is amended—

(A) by inserting the following after paragraph 1: ~~striking "(10) Marihuana." and~~ (1)(a) It shall be unlawful to possess Marihuana, except that a person 21 years of age or older who possesses for personal use less than two ounces of marijuana, or 5 grams of marijuana concentrate, or cultivates more than 6 mature marijuana plants and 6 immature marijuana plants¹⁶ at a time at or within the person's primary residence, or who possesses paraphernalia for marijuana use, shall not be penalized or sanctioned in any manner or denied any right or privilege under Federal law, and no person 21 years of age or older giving away or otherwise transferring without remuneration up to two ounces of marijuana to a person 21 years of age or older shall be penalized or sanctioned in any manner or denied any right or privilege under Federal law, as long as the transfer is not advertised or promoted to the public, and no person who possesses, cultivates, transfers, or uses marijuana for medical or palliative purposes in conformity with the laws governing medical or palliative use of cannabis of the person's State, District, territory, tribe, or other possession of the United States shall be penalized or sanctioned in any manner or denied any right or privilege under Federal law.

(B) Inserting after paragraph (1)(a), "(1)(b) Cultivation of marijuana for personal use only shall occur on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property, and in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator."¹⁷

~~(B) — by striking "Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp (as defined in section 297A of the Agricultural Marketing Act of 1946)."~~

~~(2) — REMOVAL FROM SCHEDULE. — Not later than 180 days after the date of the enactment of this Act, the Attorney General shall finalize a rulemaking under section 201(a)(2) removing marihuana and tetrahydrocannabinols from the schedules of controlled substances. For the purposes of the Controlled Substances Act, marihuana and tetrahydrocannabinols shall each be deemed to be a drug or other substance that does not meet the requirements for inclusion in any schedule. A rulemaking under this paragraph shall be considered to have taken effect as of the date of enactment of this Act for purposes of any offense committed, case pending, conviction entered, and, in the case of a juvenile, any offense committed, case pending, and adjudication of juvenile delinquency entered before, on, or after the date of enactment of this Act.~~

¹⁶ The Parabola Center recommends defining immature marijuana plant as "a clone, seedling, or rooted plant is no taller than eight inches and no wider than eight inches."

¹⁷ Adopted and modified from H.511 (2018) (Act 86) of Vermont.

(b) CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES ACT.—
The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended—

- (1) in section 102(44) (21 U.S.C. 802(44)),¹⁸ by striking “marihuana,”;
- (2) in section 401(b) (21 U.S.C. 841(b))—

(A) adding before 409, “404” and before 849, “844”

~~(A) in paragraph (1)~~

(i) in subparagraph (A)

~~(I) in clause (vi), by inserting “or” after the semicolon;~~

~~(II) by striking clause (vii); and~~

~~(III) by redesignating clause (viii) as clause (vii);~~

(ii) in subparagraph (B)-

~~(I) in clause (vi), by inserting “or” after the semicolon;~~

(I) by striking “a mixture or substance containing a detectable amount of” from clause (vii); ~~and~~

~~(III) by redesignating clause (viii) as clause (vii);~~

(iii) in subparagraph (C), in the first sentence, by striking “subparagraphs (A), (B), and (D)” and inserting “subparagraphs (A) and (B)”;

(iv) by ~~striking~~ inserting at the beginning of subparagraph (D), “Except as provided in 21 U.S.C. 841,”;

~~(v) by redesignating subparagraph (E) as subparagraph (D); and~~
~~(vi) in subparagraph (D)(i), as so redesignated, by striking “subparagraphs (C) and (D)” and inserting “subparagraph (C)”;~~

~~(B) by striking paragraph (4); and~~

¹⁸ Nota bene: The term “felony drug offense” means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, anabolic steroids, or depressant or stimulant substances. The modifications of the original MORE Act in this section generally provides for incremental decriminalization and uses an amended Controlled Substances Act to support and guide State regulatory efforts, as further provided for below.

~~(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;~~

~~(3) in section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)), by striking "marihuana,";~~

(3) in section 403(d)(1) (21 U.S.C. 843(d)(1)), by striking ", marihuana,";

~~(4) in section 418(a) (21 U.S.C. 859(a)), by striking the last sentence;~~

~~(4) in section 419(a) (21 U.S.C. 860(a)), by striking the last sentence;~~

(4) in section 422(d) (21 U.S.C. 863(d))-

(A) in the matter preceding paragraph (1), by striking "marijuana,"; and

(B) ~~in paragraph (5),~~ by striking ~~paragraph 5 "~~, such as a ~~marihuana-cigarette,";~~ and

~~(8) in section 516(d) (21 U.S.C. 886(d)), by striking "section 401(b)(6)" each place the term appears and inserting "section 401(b)(5)".~~

(c) OTHER CONFORMING AMENDMENTS.-

(1) NATIONAL FOREST SYSTEM DRUG CONTROL ACT OF 1986.-The National Forest System Drug Control Act of 1986 (16 U.S.C. 559b et seq.) is amended-

(A) In section 15002(a) (16 U.S.C. 559b(a)) by striking "marijuana and other";

(B) In section 15003(2) (16 U.S.C. 559c(2)) by striking "marijuana and other"; and

(C) In section 15004(2) (16 U.S.C. 559d(2)) by striking "marijuana and other".

(2) INTERCEPTION OF COMMUNICATIONS.-Section 2516 of title 18, United States Code, is amended-

(A) in subsection (1)(e), by striking "marihuana,"; and

(B) in subsection (2) by striking "marihuana".

~~(3) FMCSA PROVISIONS.-~~

~~(A) CONFORMING AMENDMENT. Section 31301(5) of title 49, United States Code, is amended by striking "section 31306," and inserting "sections 31306, 31306a, and subsections (b) and (c) of section 31310,".~~

~~(B) DEFINITION. Section 31306(a) of title 49, United States Code, is amended-~~

~~(i) by striking "means any substance" and inserting the following:
"means-~~

~~"(A) any substance"; and~~

~~(ii) by striking the period at the end and inserting "; and~~

~~"(B) any substance not covered under subparagraph (A) that was a substance under such section as of December 1, 2018, and specified by the Secretary of Transportation."~~

~~(C) DISQUALIFICATIONS. Section 31310(b) of title 49, United States Code, is amended by adding at the end the following:~~

~~"(3) In this subsection and subsection (c), the term 'controlled substance' has the meaning given such term in section 31306(a)."~~

~~(4) FAA PROVISIONS. Section 45101 of title 49, United States Code, is amended-~~

~~(A) by striking "means any substance" and inserting the following:
"means-~~

~~"(A) any substance"; and~~

~~(B) by striking the period at the end and inserting "; and~~

~~"(B) any substance not covered under subparagraph (A) that was a substance under such section as of December 1, 2018, and specified by the Secretary of Transportation."~~

~~(5) FRA PROVISIONS. Section 20140(a) of title 49, United States Code, is amended-~~

~~(A) by striking "means any substance" and inserting the following:
"means-~~

~~"(A) any substance"; and~~

~~(B) by striking the period at the end and inserting "; and~~

~~"(B) any substance not covered under subparagraph (A) that was a substance under such section as of December 1, 2018, and specified by the Secretary of Transportation."~~

~~(6) FTA PROVISIONS. Section 5331(a)(1) of title 49, United States Code, is amended-~~

~~(A) by striking "means any substance" and inserting the following:
"means-~~

~~"(A) any substance"; and (B) by striking the period at the end and inserting
"; and~~

~~"(B) any substance not covered under subparagraph (A) that was a
substance under such section as of December 1, 2018, and whose use the
Secretary of Transportation decides has a risk to transportation safety."-~~

(d) RETROACTIVITY.-The amendments made by this section to the Controlled Substances Act (21 U.S.C. 801 et seq.) are retroactive and shall apply to any offense committed, case pending, conviction entered, and, in the case of a juvenile, any offense committed, case pending, or adjudication of juvenile delinquency entered before, on, or after the date of enactment of this Act.

(e) EFFECT ON OTHER LAW.-Nothing in this subtitle shall affect or modify-

(1) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

(2) section 351 of the Public Health Service Act (42 U.S.C. 262); or

(3) the authority of the Commissioner of Food and Drugs and the Secretary of Health and Human Services-

(A) under-

(i) the Federal Food, Drug, and Cosmetic Act (21 U.S. 301 et seq.); or

(ii) (ii) section 351 of the Public Health Service Act (42 U.S.C. 262); or

(B) to promulgate Federal regulations and guidelines that relate to products containing cannabis or cannabis-derived compounds under the Act described in subparagraph (A)(i) or the section described in subparagraph (A)(ii).

~~(f) PUBLIC MEETINGS. Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall hold not less than one public meeting to address the regulation, safety, manufacturing, product quality, marketing, labeling, and sale of products containing cannabis or cannabis-derived compounds.~~

(f) SPECIAL RULE FOR FEDERAL EMPLOYEE TESTING.-Section 503 of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note) is amended by adding at the end the following:

"(h) MARIJUANA.-

"(1) CONTINUED TESTING.-Notwithstanding the Marijuana Opportunity Reinvestment and Expungement Act of 2021 and the amendments made thereby, the Secretary of Health and Human Services may continue to include marijuana for purposes of drug testing of Federal employees subject to this section, Executive Order 12564, or other applicable Federal laws and orders.

"(2) DEFINITION.-The term 'marijuana' has the meaning given to the term 'marihuana' in section 102 of the Controlled Substances Act (21 U.S.C. 802) on the day before the date of enactment of the Marijuana Opportunity Reinvestment and Expungement Act of 2021."

(g) SPECIAL RULE FOR CERTAIN REGULATIONS.-

(1) IN GENERAL.-The amendments made by this section may not be construed to abridge the authority of the Secretary of Transportation, or the Secretary of the department in which the Coast Guard is operating, to regulate and screen for the use of a controlled substance.

(2) CONTROLLED SUBSTANCE DEFINED.-In this subsection, the term "controlled substance" means-

(A) any substance covered under section 102 of the Controlled Substances Act (21 U.S.C. 802) on the day before the date of enactment of this Act; and

(B) any substance not covered under subparagraph (A) that was a substance covered under section 102 of the Controlled Substances Act (21 U.S.C. 802) on December 1, 2018, and specified by the Secretary of Transportation.

MARIJUANA CONTROL LAW OPT-OUT PROCEDURE FOR STATES.¹⁹

(1) REMOVAL OF PENALTIES IN STATUTE.-Section 708 of the Controlled Substances Act (21 U.S.C. 903) is amended-

by inserting the following:

¹⁹ The Parabola Center takes this new section substantially, with some modification, from [*Cooperative Federalism and Marijuana Regulation*, 62 UCLA L. Rev. 74](#). **Our modifications are in bold.** Naturally, we thank the authors and endorse cooperative federalism as one of several viable options to strengthen the development of effective state-level approaches to social and economic equity and racial justice with federal support.

“Section 903A.

(1) Notwithstanding any other provision of law:

(a) No provision of this subchapter or any other federal statute concerning marijuana, including but not limited to criminal and civil penalties, shall apply to any acts which take place within the jurisdiction of any State during any time period in which such State is certified as a CSA Marijuana Control Opt-Out State by the Attorney General under the procedure established in subdivision (2), except to the extent the certified State's laws expressly provide otherwise.

(b) In any State certified under subdivision (2) during any period of time the State is so certified:

i. The certified State's laws concerning marijuana shall supersede and have full effect and control to the exclusion of this subchapter's provisions concerning marijuana.

ii. No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any certified State for the purpose of regulating marijuana.

(2) The Attorney General shall, as soon as practicable after the enactment of this Section, issue regulations establishing a procedure by which States may request certification as a CSA Marijuana Control Opt-Out State. The regulations shall require the Attorney General to certify any requesting State within a reasonable time period unless the Attorney General determines that State's marijuana control laws do not create strong and effective regulatory and enforcement systems with the following characteristics:

(a) reasonably able to prevent the distribution of marijuana to minors;

(b) reasonably able to prevent revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;

(c) reasonably able to prevent the diversion of marijuana from states where it is legal under state law in some form to other states;

(d) reasonably able to prevent state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(e) reasonably able to prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(f) reasonably able to prevent drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;

(g) reasonably able to prevent growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(h) reasonably able to prevent marijuana possession or use on federal property;

(i) reasonably able to ensure that the communities that have been the most harmed by cannabis prohibition are benefiting the most from the legal marijuana marketplace, including but not limited to:

i. utilizing most of the state tax revenue collected from legal cannabis sales to benefit the people harmed by cannabis prohibition; and

ii. identifying social equity businesses as businesses or worker-owned cooperatives owned and controlled by people harmed by cannabis prohibition and exclusively issuing licenses to social equity businesses until the majority of operating businesses are social equity businesses, and thereafter issuing licenses to maintain an equal ratio of operating licensed social equity businesses to other operating licensed cannabis businesses;

(j) reasonably able to collect and provide demographic data to The Bureau of Labor Statistics pursuant to Section 5 of this Act.

(3) The certification granted under subdivision (2) shall be for a period of two years. Before the expiration of this two-year certification period the Attorney General shall reassess the State's marijuana control laws unless the State notifies the Attorney General it is not seeking recertification. The State shall be recertified every two years unless the Attorney General determines that the State's marijuana control laws no longer meet the standards set out in subdivision (2).

(4) Any determination that a State seeking certification under subdivision (2) does not satisfy the certification standards set out in that subdivision shall be conveyed in writing and shall specify all the criteria provided in subdivisions (a) through (h) of subdivision (2) that the State's marijuana control laws fail to satisfy. Any such written determination shall also include specific changes to the State's marijuana control laws that would bring the State into compliance with the specified criteria and allow certification.

(5) The regulations issued under subdivision (2) shall include:

(a) Emergency procedures by which the Attorney General may seek to revoke a certification granted under subdivision (2) before the expiration of the two-year certification period if a certified State's marijuana control laws no longer meet the standards set out in subdivision (2) and there is an imminent threat of significant harm to a person or persons unless federal law is reinstated; and

(b) Procedures by which a State may seek administrative review of any decision to deny certification under subdivision (2) or revoke a certification previously granted.”

SEC. 5. DEMOGRAPHIC DATA OF CANNABIS BUSINESS OWNERS AND EMPLOYEES.

(a) IN GENERAL.-The Bureau of Labor Statistics shall regularly compile, maintain, and make public data on the demographics of-

- (1) (1) individuals who are business owners in the cannabis industry; and
- (2) (2) individuals who are employed in the cannabis industry.

(b) DEMOGRAPHIC DATA.-The data collected under subsection (a) shall include data regarding-

- (1) age
- (2) certifications and licenses;
- (3) disability status;
- (4) educational attainment;
- (5) family and marital status;
- (6) nativity;
- (7) race and Hispanic ethnicity;
- (8) school enrollment;
- (9) veteran status; and
- (10) sex; and

(11) participation in a social equity, economic empowerment, or other program intended to ensure racial equity in the cannabis industry.

(c) CONFIDENTIALITY.-The name, address, and other identifying information of individuals employed in the cannabis industry shall be kept confidential by the Bureau and not be made available to the public.

(d) DATA COLLECTION AND COMPARABILITY. - Data and other information collected by the Bureau under this section shall be collected and maintained in a manner that allows for accurate and meaningful comparisons of any two or more jurisdictions.

(d) DEFINITIONS.-In this section:

(1) CANNABIS.-The term "cannabis" means either marijuana or cannabis as defined under the State law authorizing the sale or use of cannabis in which the individual or entity is located.

(2) CANNABIS INDUSTRY.-The term "cannabis industry" means any one or more of the following: an individual or entity that is licensed or permitted under a State or local law to engage in commercial cannabis-related activity; an individual or entity that provides ancillary goods or services to such licensed or permitted commercial cannabis business as its predominant commercial activity.

(3) OWNER.-The term "owner" means an individual or entity that is any one or more of the following: an individual or entity that is defined as an owner under the State or local law where the individual or business is licensed or permitted; an individual or entity who has fractional ownership of a business in the cannabis industry and who substantially controls or influences the decision-making of the business; an individual or entity who through other means has indirect control of or influence over the decision-making of a cannabis business in a manner substantially similar to control or influence through ownership, where such indirect control shall include, but not be limited to, having majority or substantial ownership over a holding or parent company of the cannabis business.

In order to be consistent with this proposal for an incremental federal decriminalization of cannabis, simultaneous with relieving qualified States from the burden of the Controlled Substances Act, we eliminate Sections 5 and 6 of the original MORE Act. The Parabola Center supports versions of those Sections under a different model for federal legalization. We propose a different model separately, with a much strengthened and independent Office of Cannabis Justice to regulate and protect state and federal social and economic equity efforts.

This draft bill resumes with and retains Section 7, Small Business Administration, and subsequent Sections of the original MORE Act. We support those provisions and regard them as compatible with the cooperative federalism approach of this draft bill.