To amend the Controlled Substances Act to reduce the gap between Federal and State marijuana policy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on __________________.

A BILL

To amend the Controlled Substances Act to reduce the gap between Federal and State marijuana policy, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Responsibly Addressing the Marijuana Policy Gap Act of 2017”.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term “depository institution” means—
(A) a depository institution as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(B) a Federal credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752); or

(C) a State credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(2) the term “Indian country” has the meaning given the term in section 1151 of title 18, United States Code;

(3) the term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304);

(4) the term “marijuana” has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by (d)(2);

(5) the term “marijuana derivative” means any marijuana product that is not a naturally grown and unadulterated marijuana flower product;
(6) the term “marijuana product” means any article that contains marijuana or any marijuana derivative;

(7) the term “marijuana-related business” means a manufacturer, producer, or any person that—

(A) participates in any business or organized activity that involves handling marijuana or marijuana products, including selling, transporting, displaying, dispensing, or distributing marijuana or marijuana products; and

(B) engages in such activity pursuant to a law established by a State, a unit of local government, or an Indian tribe that has jurisdiction over the Indian country in which the activity occurs; and

(8) the term “State” means each of the several States, the District of Columbia, Puerto Rico, and any territory or possession of the United States.
TITLE I—FEDERALISM IN MARIJUANA POLICY

SEC. 101. ELIMINATION OF CRIMINAL PENALTIES FOR CERTAIN PERSONS COMPLYING WITH STATE LAW.

Section 708 of the Controlled Substances Act (21 U.S.C. 903) is amended—

(1) by striking “No provision” and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (b), no provision”;

(2) by adding at the end the following:

“(b) COMPLIANCE WITH STATE LAW.—Notwithstanding any other provision of law, the provisions of this title relating to marihuana shall not apply to any person acting in compliance with State law or the law of the Indian tribe that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, where the conduct occurs relating to—

“(1) the production, possession, distribution, dispensation, administration, laboratory testing, or delivery of marihuana; or

“(2) the provision of ancillary services related to the activities described in paragraph (1), such as legal representation, payment processing, adver-
tising, security services, scientific and safety testing, or property leasing.”

TITLE II—REMOVING BUSINESS AND BANKING BARRIERS

SEC. 201. ALLOWANCE OF DEDUCTIONS AND CREDITS RELATING TO EXPENDITURES IN CONNECTION WITH MARIJUANA SALES CONDUCTED IN COMPLIANCE WITH STATE LAW.

(a) SHORT TITLE.—This section may be cited as the “Small Business Tax Equity Act of 2017”.

(b) ALLOWANCE.—Section 280E of the Internal Revenue Code of 1986 is amended by inserting before the period at the end the following: “, unless such trade or business consists of marijuana sales conducted in compliance with State law or the law of the Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, where the trade or business is conducted”.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to taxable years ending after the date of the enactment of this Act.
SEC. 202. MARIJUANA PRINT ADVERTISING.

(a) SHORT TITLE.—This section may be cited as “Marijuana Advertising in Legal States Act” or the “MAILS Act”.

(b) MARIJUANA PRINT ADVERTISING.—Section 403(c)(1) of the Controlled Substances Act (21 U.S.C. 843(c)(1)) is amended by adding at the end the following:

“This paragraph does not apply to an advertisement to the extent that the advertisement relates to an activity, involving marihuana, that is in compliance with the law of the State or the law of the law of the Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, in which that activity takes place.”.

SEC. 203. SAFE HARBOR FOR MARIJUANA BROADCAST ADVERTISING.

(a) COMMUNICATIONS ACT OF 1934.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following:

“(m) SAFE HARBOR FOR MARIJUANA BROADCAST ADVERTISING.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘covered activity’ means the production, possession, sale, distribution, dis-
pensation, administration, processing, or labora-
tory testing of marijuana;

“(B) the term ‘Indian country’ has the mean-
ing given the term in section 1151 of title
18, United States Code;

“(C) the term ‘Indian tribe’ has the mean-
ing given the term in section 4 of the Indian
Self-Determination and Education Assistance
Act (25 U.S.C. 5304); and

“(D) the term ‘marijuana’ has the mean-
ing given the term in section 102 of the Con-
trolled Substances Act (21 U.S.C. 802); and

“(E) the term ‘media of mass communica-
tions’ has the meaning given the term in sub-
section (i)(3)(C).

“(2) SAFE HARBOR.—In determining whether
to grant an application for a license or permit (in-
cluding for the renewal of a license or permit) under
this section, the Commission shall not consider the
broadcast by any medium of mass communications
of any advertising or other information pertaining to
any aspect of a covered activity to be contrary to the
public interest, convenience, and necessity, if the
covered activity, and the advertising thereof, does
not violate the law of—
“(A) the State, or the Indian tribe that has jurisdiction over the Indian country, in which the transmission point of the subject medium of mass communications is located; or

“(B) with respect to a radio or television station, the State, or the Indian tribe that has jurisdiction over the Indian country, in which the station’s community of license is or is proposed to be located.”.

(b) CONTROLLED SUBSTANCES ACT.—Section 708 of the Controlled Substances Act (21 U.S.C. 903), as amended by section 101, is amended—

(1) in subsection (a), by striking “subsection (b)” and inserting “subsections (b) and (c)”;

(2) in subsection (b), by striking “Notwithstanding” and inserting “Subject to subsection (c) and notwithstanding”;

(3) by adding at the end the following:

“(c) COMPLIANCE WITH STATE OR TRIBAL LAW RELATING TO MARIJUANA BROADCAST ADVERTISING.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the provisions of this title relating to marijuana shall not apply to the broadcast by any medium of mass communications of any advertising or
other information pertaining to any aspect of a covered activity if the covered activity, and the advertising thereof, does not violate the law of—

“(A) the State, or the Indian tribe that has jurisdiction over the Indian country, in which the transmission point of the subject medium of mass communications is located; or

“(B) with respect to a radio or television station, the State, or the Indian tribe that has jurisdiction over the Indian country, in which the station’s community of license is located.

“(2) BROADCASTS CALCULATED TO INDUCE TRAVEL FROM NON-LEGAL JURISDICTIONS.—Paragraph (1) shall not apply to the broadcast by any medium of mass communications of any advertising or other information pertaining to any aspect of a covered activity that is calculated to induce residents of a non-legal jurisdiction to travel to another State or other area of Indian country to purchase marijuana.

“(d) DEFINITIONS.—For purposes of this section—

“(1) the term ‘covered activity’ means the production, possession, sale, distribution, dispensation, administration, processing, or laboratory testing of marijuana;
“(2) the term ‘Indian country’ has the meaning given the term in section 1151 of title 18, United States Code;

“(3) the term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304);

“(4) the term ‘media of mass communications’ has the meaning given the term in section 309(i)(3)(C) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)(C)); and

“(5) the term ‘non-legal jurisdiction’ means—

“(A) a State in which the purchase of marijuana is prohibited under State law; or

“(B) Indian country in which the purchase of marijuana is prohibited under the law of the Indian tribe that has jurisdiction over the Indian country.”.

SEC. 204. ACCESS TO BANKING.

(a) DEFINITIONS.—In this section—

(1) the term “Federal banking regulator” means each of the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the
Currency, the National Credit Union Administration, or any Federal agency or department that regulates banking or financial services, as determined by the Secretary of the Treasury;

(2) the term “financial service” means a financial product or service as defined in section 1002 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5481);

(3) the term “manufacturer” means a person who manufactures, compounds, converts, processes, prepares, or packages marijuana or marijuana products;

(4) the term “producer” means a person who plants, cultivates, harvests, or in any way facilitates the natural growth of marijuana.

(b) Safe Harbor for Depository Institutions.—A Federal banking regulator may not—

(1) terminate or limit the deposit insurance of a depository institution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) or the Federal Credit Union Act (12 U.S.C. 1751 et seq.) solely because the depository institution provides or has provided financial services to a marijuana-related business;
(2) prohibit, penalize, or otherwise discourage a depository institution from providing financial services to a marijuana-related business;

(3) recommend, incentivize, or encourage a depository institution not to offer financial services to an person, or to downgrade or cancel the financial services offered to an person solely because—

(A) the person is a manufacturer or producer of marijuana;

(B) the person is the owner, operator, or an employee of a marijuana-related business;

(C) the person later becomes an owner, operator, or employee of a marijuana-related business; or

(D) the depository institution was not aware that the person is the owner, operator, or an employee of a marijuana-related business; or

(4) take any adverse or corrective supervisory action on a loan to an owner, operator, or employee of—

(A) a marijuana-related business solely because the owner, operator, or employee is an owner, operator, or employee of a marijuana-related business; or
(B) real estate or equipment that is leased
to a marijuana-related business solely because
the owner or operator of the real estate or
equipment leased the real estate or equipment
to a marijuana-related business.

(c) Prohibition on Denying Master Accounts
to Depository Institutions Because of Marijuana-
related Funds.—Notwithstanding any other provision
of law, the Board of Governors of the Federal Reserve
System may not deny a master account to a depository
institution solely on the basis that the depository institu-
tion accepts deposits of funds from marijuana-related
businesses.

(d) Protections Under Federal Law.—

(1) Investigation and Prosecution.—A de-
pository institution that provides financial services
to a marijuana-related business, or the officers, di-
rectors, and employees of that business, shall be im-
mune from Federal criminal prosecution or inves-
tigation for providing those services.

(2) Federal Criminal Law.—A depository in-
stitution that provides financial services to a mari-
juana-related business, or the officers, directors, and
employees of that business, shall not be subject to
a criminal penalty under any Federal law solely for
providing those services or for further investing any
income derived from such services.

(3) **FORFEITURE.**—A depository institution
that has a legal interest in the collateral for a loan
made to an owner, operator, or employee of a mari-
juana-related business, or to an owner or operator of
real estate or equipment that is leased to a mari-
juana-related business, shall not be subject to crimi-
nal, civil, or administrative forfeiture of that legal
interest pursuant to any Federal law for providing
such loan.

(e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
tion requires a depository institution to provide financial
services to a marijuana-related business.

**SEC. 205. REQUIREMENTS FOR FILING SUSPICIOUS ACTIV-
ITY REPORTS.**

(a) **DEFINITION.**—In this section, the term “deposit
account records”—

(1) means account ledgers, signature cards, cer-
tificates of deposit, passbooks, corporate resolutions
authorizing accounts in the possession of the deposi-
tory institution, and other books and records of the
depository institution, including records maintained
by computer, which relate to the depository institu-
tion’s deposit taking function; and
(2) does not include account statements, deposit slips, items deposited, or cancelled checks.

(b) Suspicious Activity Reports.—

(1) IN GENERAL.—A depository institution or any director, officer, employee, or agent of a depository institution shall not be required to report a suspicious transaction as prescribed by the guidance issued by the Financial Crimes Enforcement Network titled “BSA Expectations Regarding Marijuana-Related Businesses” (FIN–2014–G001; published on February 14, 2014) or section 21.11(c)(4)(1) of title 12, Code of Federal Regulations, if—

(A) the depository institution reasonably believes, based on customer due diligence, that the marijuana-related businesses to which it is providing financial services does not implicate one of the priorities outlined in the document entitled “Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement” issued by James M. Cole on August 29, 2013, nor violate the laws of the State in which marijuana-related business operates; and

(B) the deposit account records of the depository institution—
(i) include—

(I) identifying information of the account holder and related parties; and

(II) addresses of the account holder and related parties;

(ii) state that—

(I) the account holder is engaged in a marijuana-related business; and

(II) no additional suspicious activity has been identified.

(2) SAFE HARBOR.—A depository institution or any director, officer, employee, or agent of a depository institution that reports a suspicious transaction relating to a marijuana-related business shall be considered to have met the requirements of the guidance described in paragraph (1).

SEC. 206. BANKRUPTCY PROTECTION.

Notwithstanding any other provision of law, a marijuana-related business shall be entitled to—

(1) relief under chapter 7, 11, or 13 of title 11, United States Code; and

(2) convert a case in accordance with section 706, 1112, or 1307 of title 11, United States Code, as applicable.
(a) IN GENERAL.—The fact that an Indian tribe, a member of an Indian tribe, or a tribal entity is producing, purchasing, or possession marijuana in compliance with the law of the Indian tribe that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, where the conduct occurs shall not be considered when—

(1) allocating or distributing Federal funds or other Federal benefits to the Indian tribe, a member of an Indian tribe, or the tribal entity;

(2) determining the eligibility of the Indian tribe or the tribal entity for any contract, grant, or other agreement with the United States, or the renewal or modification thereof, where the legal production, purchase, or possession of marijuana by the Indian tribe or a member of an Indian tribe would otherwise disqualify the Indian tribe from eligibility;

(3) evaluating the ongoing compliance of the Indian tribe or the tribal entity with any contract, grant, or other agreement with the United States where the legal production, purchase, or possession of marijuana by the Indian tribe or a member of an Indian tribe would otherwise result in the Indian tribe or tribal entity being out of compliance; and
(4) determining if the Indian tribe or a member of an Indian tribe is eligible for Federal benefits for which the Indian tribe or a member of an Indian tribe would otherwise be eligible.

(b) CLARIFICATION.—This subsection shall not prohibit consideration of income from the legal production, purchase, or possession of marijuana to the same extent that the other legal income would be considered when allocating or distributing Federal funds or determining eligibility for Federal benefits.

(c) DEFINITIONS.—For purposes of this subsection:

(1) TRIBAL ENTITY.—The term “tribal entity” means—

(A) tribal organizations as defined in section 4(1) of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 5304(l));

(B) tribally designated housing entities as defined in section 4(22) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22)); or

(C) Indian-owned businesses and tribal enterprises as defined in paragraphs (5) and (8) of section 3 of the Native American Business

(2) LEGALLY AUTHORIZED.—The term “legally authorized” means permitted under the laws of—

(A) the United States;

(B) the State where the lands held in fee by an Indian tribe or held in trust by the United States for the benefit on behalf of that Indian tribe are located; or

(C) an Indian tribe.

TITLE III—INDIVIDUAL PROTECTIONS

SEC. 301. EXPUNGEMENT OF CRIMINAL RECORDS FOR CERTAIN MARIJUANA-RELATED OFFENSES.

(a) SHORT TITLE.—This section may be cited as “Clean Slate for Marijuana Offenses Act of 2017”.

(b) EXPUNGEMENT.—Chapter 229 of title 18, United States Code, is amended by inserting after subchapter C the following:

“SUBCHAPTER D—EXPUNGEMENT

Sec.
3631. Expungement of certain criminal records in limited circumstances.
3632. Requirements for expungement.
3633. Procedure for expungement.
3634. Effect of expungement.
3635. Disclosure of expunged records.
§ 3631. Expungement of certain criminal records in limited circumstances

(a) In General.—Any individual convicted of a qualifying marijuana-related offense who fulfills the requirements of section 3632 may, upon petition for expungement made in accordance with this subchapter, obtain an order granting expungement under this subchapter.

(b) Definition of Qualifying Marijuana-Related Offense.—In this subchapter, the term ‘qualifying marijuana-related offense’ means an offense against the United States in which the conduct constituting the offense—

(1) was legal under the State law or the law of the Indian tribe at the time of the offense; or

(2) was the possession of marijuana in a quantity is not greater than 1 ounce.

(c) Definitions.—In this subchapter—

(1) the term ‘Indian country’ has the meaning given the term in section 1151;

(2) the term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304); and
“(3) the term ‘State’ includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

“§ 3632. Requirements for expungement

“No individual shall be eligible for an order of expungement under this subchapter unless, before filing a petition under this subchapter, such individual fulfills all requirements of the sentence for the conviction for which expungement is sought, including completion of any term of imprisonment or period of probation, meeting all conditions of a supervised release, and paying all fines.

“§ 3633. Procedure for expungement

“(a) Petition.—An individual may file a petition for expungement of a conviction in the court in which the conviction was obtained. A copy of the petition shall be served by the court upon the United States Attorney for the judicial district of that court.

“(b) Opportunity for Government To Contest Petition.—Not later than 60 days after the date a copy of a petition is served on the Government under subsection (a), the Government may, if the Government determines the facts do not support the petition, inform the court and the petitioner that the Government opposes granting expungement. If the Government does so inform the court and the petitioner, the court shall allow the Government
and the petitioner an opportunity to present evidence and
argument relating to the petition.

“(c) COURT-ORDERED EXPUNGEMENT.—If, after the
passage of the 60-day period described in subsection (a)
or earlier, if the Government informs the court it will not
oppose granting expungement or if proceedings related to
that opposition have been completed, the court determines
the preponderance of the evidence before the court sup-
ports the granting of expungement under this subchapter,
the court shall issue an order granting that expungement.

If the court determines the petition is not supported by
the preponderance of the evidence before the court, the
court shall deny the petition.

“§ 3634. Effect of expungement

“(a) IN GENERAL.—An order granting expungement
under this subchapter restores the individual concerned,
in the contemplation of the law, to the status that indi-
vidual occupied before the arrest or the institution of
criminal proceedings for the offense for which
expungement is granted.

“(b) NO DISQUALIFICATION; STATEMENTS.—After
an order under this subchapter granting expungement of
an individual’s criminal records, that individual is not re-
quired to divulge information pertaining to the expunged
conviction. The fact that such individual has been con-
vicoted of the criminal offense concerned shall not operate
as a disqualification of that individual to pursue or engage
in any lawful activity, occupation, or profession. Such indi-
vidual is not guilty of any perjury, false answering, or
making a false statement by reason of that individual’s
failure to recite or acknowledge such arrest or institution
of criminal proceedings, or results thereof, in response to
an inquiry made of that individual for any purpose.

“(c) RECORDS TO BE DESTROYED.—Except as pro-
vided in section 3635, upon order of expungement, all offi-
cial law enforcement and court records, including all ref-
ences to such person’s arrest for the offense, the institu-
tion of criminal proceedings against the individual, and
the results thereof, except publicly available court opinions
or briefs on appeal, shall be permanently destroyed.

“§ 3635. Disclosure of expunged records

“(a) INDEX TO ASSIST AUTHORIZED DISCLOSURE.—
The Department of Justice shall maintain a nonpublic
manual or computerized record of expungement under this
subchapter containing only the name of, and alphanumeric
identifiers selected by the Department of Justice that re-
late to, the persons who obtained expungement under this
subchapter, and the order of expungement.

“(b) AUTHORIZED DISCLOSURE TO INDIVIDUAL.—
Information in the index shall be made available only to
the individual to whose expungement it pertains or to such
individual’s designated agent.

“(c) **Punishment for Improper Disclosure.**—
Whoever knowingly discloses information relating to an
expunged conviction other than as authorized in this sub-
chapter shall be fined under this title or imprisoned not
more than one year, or both.”.

(c) **Clerical Amendment.**—The table of sub-
chapter at the beginning of chapter 229 of title 18, United
States Code, is amended by adding at the end the fol-
lowing item:

“D. **Expungement** ......................................................... 3631”.

(d) **Effective Date.**—The amendments made by
this section apply to individuals convicted of an offense
before, on, or after the date of enactment of this Act.

**SEC. 302. LIMIT ON DRUG TESTING FOR APPLICANTS FOR**
**FEDERAL EMPLOYMENT.**

(a) **Definition.**—In this section, the term “covered
position” means a position in the civil service (as defined
in section 2101 of title 5, United States Code).

(b) **Prohibition.**—If an applicant for a covered po-
sition used marijuana in accordance with the law of a
State or the law of an Indian tribe that has jurisdiction
over the Indian country in which the use occurred, before,
on, or after the date on which the application is submitted,
the no agency, establishment, or other appointing author-
ity in the executive, legislative, or judicial branch of the Federal Government may—

(1) require the applicant to submit to a test that screens for the use of marijuana; or

(2) in determining whether to appoint the applicant to the covered position—

(A) use the results of a test indicating that an applicant for a covered position used marijuana, in whole or in part; or

(B) use any evidence that the applicant used marijuana.

SEC. 303. FAIR ACCESS TO EDUCATION.

(a) SHORT TITLE.—This section may be cited as the “Fair Access to Education Act of 2017”.

(b) EXCLUSION OF MISDEMEANOR MARIJUANA POSSESSION OFFENSES FROM DRUG-RELATED OFFENSES RESULTING IN SUSPENSION OF ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR HIGHER EDUCATION.—Section 484(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) is amended by inserting after “controlled substance” the following: “, but not including any misdemeanor offense for possession of marijuana (as such term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),”.

(c) APPLICABILITY; RESUMPTION OF ELIGIBILITY.—
(1) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to convictions for offenses described in the matter inserted by such amendment occurring before, on, and after the date of enactment of this Act.

(2) **RESUMPTION OF ELIGIBILITY.**—Any student whose eligibility for grants, loans, and work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) was suspended under section 484®)(1) of such Act by reason of a conviction, before the date of enactment of this Act, for an offense described in the matter inserted by the amendment made by subsection (a) shall, unless otherwise ineligible for such assistance, resume eligibility upon such date of enactment.

**SEC. 304. CIVIL FORFEITURE EXEMPTION FOR MARIJUANA FACILITIES AUTHORIZED BY STATE LAW.**

Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended—

(1) by striking “(7) All” and inserting “(7)(A) Except as provided in subparagraph (B), all”;

(2) by adding at the end the following:

“(B) No real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, shall
be subject to forfeiture under subparagraph (A) due to marijuana-related conduct that is authorized by State law or the law of the Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, in which the conduct occurs.”.

SEC. 305. PROHIBITION ON INADMISSIBILITY OR DEPORTATION OF ALIENS WHO COMPLY WITH STATE LAW.

(a) Prohibition on Inadmissibility.—Section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)(II)) is amended by inserting “other than an act involving marijuana that is permitted under the laws of a State or the law of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, in which the act occurs” after “802)),”.

(b) Prohibition on Deportation.—Section 237(a)(2)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(B)(i)) is amended by striking “marijuana,” and inserting “marijuana or an offense involving
marijuana that is permitted under the laws of a State or the law of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, in which the offense occurs”.

SEC. 306. DRUG-RELATED CRIMINAL ACTIVITY IN FEDERALLY ASSISTED HOUSING.

(a) In general.—Section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) is amended—

(1) by striking paragraph (9) and inserting the following:

“(9) Drug-related criminal activity.—The term ‘drug-related criminal activity’—

“(A) means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); and

“(B) does not include the manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of marijuana if such activity is conducted in compliance with State law or the law of the Indian
tribe that has jurisdiction over the Indian country where the activity occurs.”; and
(2) by adding at the end the following:
“(14) INDIAN COUNTRY.—The term ‘Indian country’ has the meaning given the term in section 1151 of title 18, United States Code.
“(15) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).
“(16) MARIJUANA.—The term ‘marijuana’ has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998.—Section 576 of the Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. 13661) is amended by striking “(as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))”.

(2) UNITED STATES HOUSING ACT OF 1937.—
The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(A) in section 6(l) (42 U.S.C. 1437d(l))—
(i) by redesignating the second paragraph designated as paragraph (7) (relating to violations as cause for termination of tenancy) as paragraph (8);

(ii) in paragraph (9), by redesignating paragraph (2) as subparagraph (B), and adjusting the margins accordingly; and

(iii) by striking the flush text following paragraph (9)(B), as so redesignated; and

(B) in section 8(f) (42 U.S.C. 1437f(f))—

(i) by striking paragraph (5); and

(ii) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

TITLE IV—MEDICAL MARIJUANA RESEARCH AND ACCESS

SEC. 401. MEDICAL MARIJUANA RESEARCH ACT.

(a) SHORT TITLE.—This section may be cited as the “Medical Marijuana Research Act of 2017”.

(b) DEFINITIONS.—In this section—

(1) the term “qualified medical marijuana researcher” means a researcher who is registered to conduct research with marijuana under section 303(f)(3) of the Controlled Substances Act (21
(2) the term “Secretary” means the Secretary of Health and Human Services.

(c) Production and Supply.—

(1) In general.—The Secretary—

(A) until the date on which the Secretary determines that manufacturers and distributors (other than the Federal Government) can ensure a sufficient supply of marijuana for qualified medical marijuana researchers, shall—

(i) continue to produce marijuana through the National Institute on Drug Abuse Drug Supply Program; and

(ii) offer for sale immature marijuana plants and the seeds of marijuana—

(I) to all qualified medical marijuana researchers who submit a request for such plants or seeds to engage in research pursuant to section 303(f)(3) of the Controlled Substances Act (21 U.S.C. 823(f)(3)), as amended by subsection (d); and
(II) in quantities sufficient to produce an adequate supply of marijuana for such research; and

(B) beyond the date specified in subparagraph (A), may, at the Secretary’s discretion, continue to so produce and supply marijuana.

(2) REQUIREMENT TO VERIFY REGISTRATION.—Before supplying marijuana to any person through the National Institute on Drug Abuse Drug Supply Program, the Secretary shall—

(A) require the person to submit documentation demonstrating that the person is a qualified medical marijuana researcher seeking to conduct research pursuant to the section 303(f)(3) of the Controlled Substances Act (21 U.S.C. 823(f)(3)), as amended by subsection (d); and

(B) not later than 30 days after receipt of such documentation, review such documentation and verify that the marijuana will be used for such research.

(3) GUIDELINES ON PRODUCTION.—The Commissioner of Food and Drugs, in consultation with the Director of the National Institute on Drug Abuse, shall—
(A) not later than 180 days after the date of enactment of this Act, issue guidelines on the production of marijuana by qualified medical marijuana researchers pursuant to paragraph (1)(A)(ii); and

(B) encourage researchers and manufacturers that are authorized to produce or manufacture marijuana pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823), as amended by this section, to comply with such guidelines to the extent applicable.

(4) DEFINITION.—In this subsection, the term “immature marijuana plant” means a marijuana plant with no observable flowers or buds.

(d) FACILITATING MARIJUANA RESEARCH.—

(1) IN GENERAL.—Section 303(f) of the Controlled Substances Act (21 U.S.C. 823(f)) is amended—

(A) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(B) by striking “(f) The Attorney General” and inserting “(f)(1) The Attorney General”;

(C) by striking “Registration applications” and inserting the following:
“(2) Registration applications”;

(D) in paragraph (2), as so designated, by striking “schedule I” each place that term appears and inserting “schedule I, except marijuana,”;

(E) by striking “Article 7” and inserting the following:

“(4) Article 7”; and

(F) by inserting before paragraph (4), as so designated, the following:

“(3)(A) The Attorney General shall register a practitioner to conduct research with marijuana if—

“(i) the applicant is authorized to dispense, or conduct research with respect to, controlled substances in schedules II, III, IV, and V under the laws of the State in which the applicant practices;

“(ii) the applicant’s research protocol—

“(I) has been reviewed and allowed by—

“(aa) the Secretary under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)); or

“(bb) the National Institutes of Health or another Federal agency that funds scientific research; or
“(II) in the case of nonhuman research that is not federally funded, has been voluntarily submitted by the applicant to, and approved by, the National Institutes of Health; and

“(iii) the applicant has demonstrated that there are effective procedures in place to adequately safeguard against diversion of the marijuana from legitimate medical or scientific use, in accordance with subparagraph (E).

“(B) The Attorney General shall grant an application for registration under this paragraph unless the Attorney General determines that the issuance of the registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

“(i) The applicant’s experience in dispensing, or conducting research with respect to, controlled substances.

“(ii) The applicant’s conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

“(iii) Compliance with applicable State, Federal, or local laws relating to controlled substances.
“(iv) Such other conduct by the applicant that may threaten the public health and safety.

“(C) Not later than 90 days after the date of enactment of the Medical Marijuana Research Act of 2017, for purposes of subparagraph (A)(ii)(II), the National Institutes of Health shall establish a process that—

“(i) allows a researcher to voluntarily submit the research protocol of the researcher for review and approval; and

“(ii) provides a researcher described in clause (i) with a decision not less than 30 days after the date on which the research protocol is submitted.

“(D)(i) Not later than 60 days after the date on which the Attorney General receives a complete application for registration under this paragraph, the Attorney General shall approve or deny the application.

“(ii) For purposes of clause (i), an application shall be deemed complete when the applicant has submitted documentation showing that the requirements under subparagraph (A) are satisfied.

“(E)(i) A researcher registered under this paragraph shall store marijuana to be used in research in a securely locked, substantially constructed cabinet.

“(ii) Except as provided in clause (i), any security measures required by the Attorney General for practi-
tioners conducting research with marijuana pursuant to
a registration under this paragraph shall be consistent
with the security measures for practitioners conducting re-
search on other controlled substances in schedule II that
have a similar risk of diversion and abuse.

“(F)(i) If the Attorney General grants an application
for registration under this paragraph, the applicant may
amend or supplement the research protocol without re-
applying if the applicant does not—

“(I) change the type of drug, the source of the
drug, or the conditions under which the drug is
stored, tracked, or administered; or

“(II) otherwise increase the risk of diversion.

“(ii) If an applicant amends or supplements the re-
search protocol or initiates research on a new research
protocol under clause (i), the applicant shall, in order to
renew the registration under this paragraph, provide no-
tice to the Attorney General of the amended or supple-
mented research protocol or any new research protocol in
the applicant’s renewal materials.

“(iii)(I) If an applicant amends or supplements a re-
search protocol and the amendment or supplement in-
volves a change to the type of drug, the source of the drug,
or conditions under which the drug is stored, tracked, or
administered or otherwise increases the risk of diversion,
the applicant shall provide notice to the Attorney General not later than 30 days before proceeding on such amended or supplemental research or new research protocol, as the case may be.

“(II) If the Attorney General does not object during the 30-day period following a notification under subclause (I), the applicant may proceed with the amended or supplemental research or new research protocol.

“(iv) The Attorney General may object to an amended or supplemental protocol or a new research protocol under clause (i) or (iii) only if additional security measures are needed to safeguard against diversion or abuse.

“(G) If marijuana or a compound of marijuana is listed on a schedule other than schedule I, the provisions of paragraphs (1), (2), and (4) that apply to research with a controlled substance in the applicable schedule shall apply to research with marijuana or that compound, as applicable, in lieu of the provisions of subparagraphs (A) through (F) of this paragraph.”.

(2) Conforming Amendment.—Section 102(16) of the Controlled Substances Act (21 U.S.C. 802(16)) is amended by inserting “or ‘marijuana’” after “The term ‘marihuana’”.

(e) Manufacture and Distribution of Marijuana for Use in Legitimate, Medical Research.—
Section 303 of the Controlled Substances Act (21 U.S.C. 823), as amended by subsection (d), is further amended by adding at the end the following:

“(k) Registration of Persons to Manufacture and Distribute Marijuana for Use in Legitimate, Medical Research.—

“(1) Registration of manufacturers.—Beginning not later than the day that is 1 year after the date of enactment of the Medical Marijuana Research Act of 2017, the Attorney General shall register an applicant to manufacture marijuana to the extent the marijuana will be used exclusively by qualified medical marijuana researchers for research pursuant to subsection (f)(3), unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the Attorney General shall—

“(A) take into consideration—

“(i) maintenance of effective controls against diversion of marijuana and any controlled substance compounded therefrom into other than legitimate medical, scientific, or research channels;
“(ii) compliance with applicable State and local law; and

“(iii) prior conviction record of the applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances; and

“(B) not take into consideration any factors other than the factors listed in subparagraph (A).

“(2) REGISTRATION OF DISTRIBUTORS.—Beginning not later than the day that is 1 year after the date of enactment of the Medical Marijuana Research Act of 2017, the Attorney General shall register an applicant to distribute marijuana that is intended to be used exclusively by qualified medical marijuana researchers for research pursuant to subsection (f)(3), unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the Attorney General shall—

“(A) take into consideration—

“(i) maintenance of effective controls against diversion of marijuana and any controlled substance compounded there-
from into other than legitimate medical, scientific, or research channels;

“(ii) compliance with applicable State and local law;

“(iii) prior conviction record of the applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances; and

“(iv) past experience in the distribution of controlled substances, and the existence in the establishment of effective controls against diversion; and

“(B) not take into consideration any factors other than the factors listed in subparagraph (A).

“(3) No limit on number of manufacturers and distributors.—Notwithstanding any other provision of law, the Attorney General shall not impose or implement any limit on the number of persons eligible to be registered to manufacture or distribute marijuana pursuant to paragraph (1) or (2).

“(4) Requirement to verify use for legitimate, medical research.—As a condition on registration under this section to manufacture or
distribute marijuana, the Attorney General shall re-
quire the registrant—

“(A) to require any person to whom the
marijuana will be supplied to submit docu-
mentation demonstrating that the marijuana
will be used exclusively by qualified medical
marijuana researchers for research pursuant to
subsection (f)(3); and

“(B) not later than 30 days after receipt
of such documentation, and before supplying
the marijuana to such person, to review such
documentation and verify that the marijuana
will be so used.

“(5) TIMING.—Not later than 30 days after re-
cipt of a request for registration under this sub-
section to manufacture or distribute marijuana, the
Attorney General shall—

“(A) grant or deny the request; and

“(B) in the case of a denial, provide a
written explanation of the basis for the denial.

“(6) DEFINITION.—For purposes of this sub-
section, the term ‘qualified medical marijuana re-
searcher’ means a researcher who is registered to
conduct research with marijuana under subsection
(f)(3).’’.
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(f) **Termination of Interdisciplinary Review Process for Non-NIH-Funded Researchers.**—The Secretary may not—

(1) reinstate the Public Health Service interdisciplinary review process described in the guidance entitled “Guidance on Procedures for the Provision of Marijuana for Medical Research” (issued on May 21, 1999); or

(2) create an additional review of scientific protocols that is only conducted for research on marijuana other than the review of research protocols performed at the request of a researcher conducting nonhuman research that is not federally funded, in accordance with section 303(f)(3)(A)(ii)(II) of the Controlled Substances Act (21 U.S.C. 823(f)(3)(A)(ii)(II)), as amended by subsection (d).

(g) **Consideration of Results of Research.**—Immediately upon the approval by the Food and Drug Administration of an application for a marijuana-based drug under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), and (irrespective of whether any such approval is granted) not later than the date that is 5 years after the date of enactment of this Act, the Secretary shall—
(1) conduct a review of existing medical and other research with respect to marijuana;

(2) submit a report to the Congress on the results of such review; and

(3) include in such report whether, taking into consideration the factors listed in section 201(c) of the Controlled Substances Act (21 U.S.C. 811(c)), as well as any potential for medical benefits, any gaps in research, and any impacts of Federal restrictions and policy on research, marijuana should be transferred to a schedule other than schedule I (if marijuana has not been so transferred already).

(h) No Production Quotas for Marijuana Grown for Legitimate, Medical Research.—Section 306 of the Controlled Substances Act (21 U.S.C. 826) is amended by adding at the end the following:

“(i) The Attorney General may only establish a quota for production of marijuana that is manufactured and distributed in accordance with the Medical Marijuana Research Act of 2017 that meets the changing medical, scientific, and industrial needs for marijuana.”.

(i) Article 28 of the Single Convention on Narcotic Drugs.—Article 28 of the Single Convention on Narcotic Drugs shall not be construed to prohibit, or impose additional restrictions upon, research involving
marijuana, or the manufacture, distribution, or dispensing of marijuana, that is conducted in accordance with the Controlled Substances Act (21 U.S.C. 801 et seq.), this section, and the amendments made by this section.

(j) No Interference by Department of Justice.—The Attorney General, and any officer or employee of the Department of Justice, shall not interfere with the production, distribution, and sale of marijuana in accordance with this section and the amendments made by this section.

SEC. 402. Provision by Health Care Providers of the Department of Veterans Affairs of Recommendations and Opinions Regarding Veteran Participation in State Marijuana Programs.

(a) Short Title.—This section may be cited as the “Veterans Equal Access Act of 2017”.

(b) Authorization.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall authorize physicians and other health care providers employed by the Department of Veterans Affairs—

(1) to provide recommendations and opinions to veterans who are residents of States with State marijuana programs regarding the participation of veterans in such State marijuana programs; and
(2) to complete forms reflecting such recommendations and opinions.

SEC. 403. PROVISION BY MEDICAL PROFESSIONALS OF THE INDIAN HEALTH SERVICE OF RECOMMENDATIONS AND OPINIONS REGARDING PARTICIPATION IN STATE MARIJUANA PROGRAMS.

(1) IN GENERAL.—Notwithstanding any other provision of law, IHS medical professionals are authorized to make medical recommendations to their patients with regard to marijuana and to complete forms reflecting such recommendations.

(2) DEFINITIONS.—In this subsection:

(A) IHS MEDICAL PROFESSIONAL.—The term “IHS medical professional” means a physician or other health professional furnishing services through an Indian health program (as defined in section 108(a)(2) of the Indian Health Care Improvement Act (25 U.S.C. 1616a(a)(2))).

(B) RECOMMENDATIONS.—The term “recommendations” does not include dispensing (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).