

The Legalization, Regulation, and Taxation of Marijuana Act of 2020

Proposed by:

Congressman Fitzgerald (D-NC)

Cosponsored by:

Vice President Starro (D-CA)

Congressman Vita (I-MD)

Congressman Inverary (D-MN)

Congressman Itachi (D-PA)

Congressman Cade Holbrook (D-AZ)

Congressman Ríos (D-PR)

Congressman Lester (D-CA)

Justice C.T.Skapski (D-MD)

Congressman Alex (D-Portugal)

Section 1: Legalization of Marijuana —

(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. 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.

(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. 842\(c\)\(2\)\(B\)](#)), 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) To improve the processing and oversight by the Federal Government of security clearances and background investigations, and for other purposes, it is the sense of Congress that

- (1) Ensuring the trustworthiness and security of the workforce, facilities, and information of the Federal government is of the highest priority to national security and public safety
- (2) The President and Congress should prioritize preventing access to sensitive information by those who present a threat to the United States or its allies
- (3) The president and congress should improve the efficiencies and capabilities needed to meet the current threat environment by recruiting and maintaining a trusted and skilled workforce.
- (4) Removing the use of marijuana and other drugs from the list of background investigation items pertaining to the persuance of a security clearance or other authorization for access to sensitive information is of top priority to securing national security.

(c) To regulate the use of marijuana by minors, 21 U.S.C. 387 (f) is amended to include references to Marijuana and Marijuana products, including:

(1) In section 3 (**highlighted**),

- (a) By adding “prohibit the sale of any tobacco **or marijuana product** in face-to-face transactions by a specific category of retail outlets; or
- (b) establish a minimum age of sale of tobacco **or marijuana** products to any person older than 18 years of age.

(d) To regulate the labeling and advertising with respect to any relationship between marijuana and health, as well as advertising and merchandising, 15 U.S.C. 1333 is amended to include references to Marijuana and Marijuana products, including

(1) In section 1333,

- (a) Creation of a sub-section pertaining to Marijuana and Marijuana products, stipulating:
Not later than 24 months after passage of this act, the Secretary shall issue regulations that require color graphics depicting the negative health consequences of smoking to accompany the label statements specified in subsection as identified in section 1335a. The Secretary may adjust the type size, text and format of the label statements specified in subsections (a)(2) and (b)(2) as the Secretary determines appropriate so that both the graphics and the accompanying label statements are clear, conspicuous, legible and appear within the specified area.

(2) Sections 1335a

- (a) By adding “or marijuana product” to each reference to tobacco.

Section 2: BLS Marijuana Industry Statistics —

(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.

(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) 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 an individual or entity that is licensed or permitted under a State or local law to engage in commercial cannabis-related activity.

(3) OWNER.—The term “owner” means 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.

Section 3: Provisions for the Taxation of Marijuana.—

[A] Imposition of Tax

(1) IN GENERAL.—This section provides for the implementation of a tax fund for the purposes of funding Sections 4, 5, and 6 of this bill, later explained in the second half of section 3. [Section 5701](#) of the Internal Revenue Code of 1986 is henceforth amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection.

(h) Cannabis products.—On cannabis products, manufactured in or imported into the United States, there shall be imposed a tax equal to 5 percent of the price for which sold.”.

(2) CANNABIS PRODUCT DEFINED.—Section 5702 of such Code is amended by adding at the end the following new subsection:

(q) Cannabis product.—

(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘cannabis product’ means any cannabis or any article which contains cannabis or any derivative thereof.

(2) EXCEPTION.—The term ‘cannabis product’ shall not include any medicine or drug that is a prescribed drug (as such term is defined in section 213(d)(3)).

(3) CANNABIS.—The term ‘cannabis’—

(A) 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

(B) does not include—

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

(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.”.

(3) CANNABIS PRODUCTS TREATED AS TOBACCO PRODUCTS.—Section 5702(c) of such Code is amended by striking “and roll-your-own tobacco” and inserting “roll-your-own tobacco, and cannabis products”.

(4) MANUFACTURER OF CANNABIS PRODUCTS TREATED AS MANUFACTURER OF TOBACCO PRODUCTS.—Section 5702 of such Code is amended by adding at the end the following new subsection:

(r) Manufacturer of cannabis products.—

(1) IN GENERAL.—Any person who plants, cultivates, harvests, produces, manufactures, compounds, converts, processes, prepares, or packages any cannabis product shall be treated as a manufacturer of cannabis products (and as manufacturing such cannabis product).

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any cannabis product which is for such person’s own personal consumption or use.

(3) APPLICATION OF RULES RELATED TO MANUFACTURERS OF TOBACCO PRODUCTS.—Any reference to a manufacturer of tobacco products, or to manufacturing tobacco products, shall be treated as including a reference to a manufacturer of cannabis products, or to manufacturing cannabis products, respectively.”.

[B] Trust Fund

(1) ESTABLISHMENT.—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.

(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 tax on Marijuana imposed by section 3(a) .

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

(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 Community Reinvestment Grant Programs.

Section 4: 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.”.

(3) 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:

Section 5: Resentencing and expungement —

(a) Channels for the expungement of 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, the Department of Justice and each Federal district shall conduct a comprehensive review of its summary criminal history information database and identify past convictions that are potentially eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation for each conviction or adjudication of juvenile delinquency for a 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 review its summary criminal history information database for applicability to 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 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, where applicable, 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 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 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) 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).

Section 6: Community Reinvestment Grant Program

(a) 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 most adversely impacted by the War on Drugs, including—

- (1) job training;
- (2) reentry services (e.g., mental health services, employment counseling, transition assistance)
- (3) legal aid for civil and criminal cases, including expungement of cannabis convictions;
- (4) literacy programs;
- (5) youth recreation or mentoring programs;
- (6) health education programs.

(b) Substance use treatment services.—The Community Reinvestment Grant Program established in subsection (a) shall provide eligible entities with funds to administer substance use treatment services for individuals most adversely impacted by the War on Drugs.

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.