

The STATES Act

Senator Elizabeth Warren and Senator Cory Gardner

BACKGROUND:

- Today, 46 states have laws permitting or decriminalizing marijuana or marijuana-based products. Washington D.C., Puerto Rico, Guam, and a number of tribes have similar laws.
- As states began developing their own approaches to marijuana enforcement the Department of Justice issued guidance to support these state actions and focus law enforcement resources.
- However, this guidance was withdrawn in 2018, causing legal uncertainty that severely limits these state laboratories of democracy, creates public health and safety issues, and undermines the state regulatory regimes.
- As more states, territories, and tribes thoughtfully consider updates to marijuana regulations, often through voter-initiated referendums, it is critical that Congress take immediate steps to safeguard their right to do so.

PURPOSE:

- The Strengthening the Tenth Amendment Through Entrusting States (STATES) Act ensures that each State has the right to determine for itself the best approach to marijuana within its borders. The bill also extends these protections to Washington D.C, U.S. territories, and federally recognized tribes, and contains common-sense guardrails to ensure that states, territories, and tribes regulating marijuana do so in a manner that is safe and respectful of the impacts on their neighbors.

WHAT THE BILL DOES:

- Amends the Controlled Substances Act (21 U.S.C. § 801 *et seq.*) (CSA) so that -- as long as states and tribes comply with a few basic protections -- its provisions no longer apply to any person acting in compliance with State or tribal laws relating to the manufacture, production, possession, distribution, dispensation, administration, or delivery of marijuana.
- Amends the definition of “marihuana” under the CSA (21 U.S.C. § 802(16)) to exclude industrial hemp, as defined in section 7606(b) of the Agricultural Act of 2014 (7 U.S.C. § 5940(b)).
- The bill does not alter CSA Section 417 (prohibition on endangering human life while manufacturing a controlled substance) and maintains the prohibition on employing persons under age 18 in marijuana operations, two federal requirements with which states, territories, and tribes must continue to comply.
- The bill prohibits the distribution of marijuana at transportation safety facilities such as rest areas and truck stops (Section 409).
- The bill does not allow for the distribution or sale of marijuana to persons under the age of 21 (Section 418) other than for medical purposes.
- To address financial issues caused by federal prohibition, the bill clearly states that compliant transactions are not trafficking and do not result in proceeds of an unlawful transaction.

115TH CONGRESS
2D SESSION

S. 3032

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2018

Ms. WARREN (for herself, Mr. GARDNER, Mr. PAUL, Ms. CORTEZ MASTO, Ms. MURKOWSKI, Mr. BOOKER, Mr. SULLIVAN, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Strengthening the
5 Tenth Amendment Through Entrusting States Act” or
6 the “STATES Act”.

1 **SEC. 2. RULE REGARDING APPLICATION TO MARIHUANA.**

2 (a) IN GENERAL.—Part G of the Controlled Sub-
3 stances Act (21 U.S.C. 801 et seq.) is amended by adding
4 at the end the following:

5 “RULE REGARDING APPLICATION TO MARIHUANA

6 “SEC. 710. (a) Notwithstanding any other provision
7 of law, the provisions of this title as applied to marihuana,
8 other than the provisions described in subsection (c) and
9 other than as provided in subsection (d), shall not apply
10 to any person acting in compliance with State law relating
11 to the manufacture, production, possession, distribution,
12 dispensation, administration, or delivery of marihuana.

13 “(b) Notwithstanding any other provision of law, the
14 provisions of this title related to marihuana, other than
15 the provisions described in subsection (c) and other than
16 as provided in subsection (d), shall not apply to any person
17 acting in compliance with the law of a Federally recog-
18 nized Indian tribe within its jurisdiction in Indian Coun-
19 try, as defined in section 1151 of title 18, United States
20 Code, related to the manufacture, production, possession,
21 distribution, dispensation, administration, or delivery of
22 marihuana so long as such jurisdiction is located within
23 a state that permits, respectively, manufacture, produc-
24 tion, possession, distribution, dispensation, administra-
25 tion, or delivery of marihuana.

26 “(c) The provisions described in this subsection are—

1 “(1) section 401(a)(1), with respect to a viola-
2 tion of section 409 or 418;

3 “(2) section 409;

4 “(3) section 417; and

5 “(4) section 418.

6 “(d) Subsection (a) shall not apply to any person
7 who—

8 “(1) violates the Controlled Substances Act
9 with respect to any other controlled substance;

10 “(2) notwithstanding compliance with State or
11 tribal law, knowingly or intentionally manufactures,
12 produces, possesses, distributes, dispenses, admin-
13 isters, or delivers any other marihuana in violation
14 of the laws of the State or tribe in which such man-
15 ufacture, production, possession, distribution, dis-
16 pensation, administration, or delivery occurs; or

17 “(3) employs or hires any person under 18
18 years of age to manufacture, produce, distribute,
19 dispense, administer, or deliver marihuana.”.

20 (b) DEFINITION OF MARIHUANA.—Section 102(16)
21 of the Controlled Substances Act (21 U.S.C. 802(16)) is
22 amended—

23 (1) by striking “or the sterilized” and inserting
24 “the sterilized”; and

1 (2) by striking the period at the end and insert-
2 ing “, or industrial hemp (as defined in section
3 7606(b) of the Agricultural Act of 2014 (7 U.S.C.
4 5940(b))).”.

5 **SEC. 3. TRANSPORTATION SAFETY OFFENSES.**

6 Section 409 of the Controlled Substances Act (21
7 U.S.C. 849) is amended—

8 (1) in subsection (b), in the matter preceding
9 paragraph (1)—

10 (A) by striking “A person” and inserting
11 “Except as provided in subsection (d), a per-
12 son”; and

13 (B) by striking “subsection (b)” and in-
14 serting “subsection (e)”;

15 (2) in subsection (c), in the matter preceding
16 paragraph (1)—

17 (A) by striking “A person” and inserting
18 “Except as provided in subsection (d), a per-
19 son”; and

20 (B) by striking “subsection (a)” and in-
21 serting “subsection (b)”;

22 (3) by adding at the end the following:

23 “(d) EXCEPTION.—Subsections (b) and (c) shall not
24 apply to any person who possesses, or possesses with in-

1 tent to distribute marihuana in compliance with section
2 710.”.

3 **SEC. 4. DISTRIBUTION TO PERSONS UNDER AGE 21.**

4 Section 418 of the Controlled Substances Act (21
5 U.S.C. 859) is amended—

6 (1) in subsection (a), in the first sentence, by
7 inserting “and subsection (c) of this section” after
8 “section 419”;

9 (2) in subsection (b), in the first sentence, by
10 inserting “and subsection(c) of this section” after
11 “section 419”; and

12 (3) by adding at the end the following:

13 “(c) Subsections (a) and (b) shall not apply to any
14 person at least 18 years of age who distributes medicinal
15 marihuana to a person under 21 years of age in compli-
16 ance with section 710.”.

17 **SEC. 5. RULE OF CONSTRUCTION.**

18 (a) IN GENERAL.—Conduct in compliance with this
19 Act and the amendments made by this Act—

20 (1) shall not be unlawful;

21 (2) shall not constitute trafficking in a con-
22 trolled substance under section 401 of the Controlled
23 Substances Act (21 U.S.C. 841) or any other provi-
24 sion of law; and

1 (3) shall not constitute the basis for forfeiture
2 of property under section 511 of the Controlled Sub-
3 stances Act (21 U.S.C. 881) or section 981 of title
4 18, United States Code.

5 (b) PROCEEDS.—The proceeds from any transaction
6 in compliance with this Act and the amendments made
7 by this Act shall not be deemed to be the proceeds of an
8 unlawful transaction under section 1956 or 1957 of title
9 18, United States Code, or any other provision of law.

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