



November 18, 2021

The Honorable Nancy Pelosi
The Honorable Kevin McCarthy
The Honorable Chuck Schumer
The Honorable Mitch McConnell
The Honorable Cory Booker
The Honorable Ronald Wyden

Re: Comment Letter to Cannabis Administration and Opportunity Act Discussion
Draft

Dear Speaker Pelosi, Majority Leader Schumer, Minority Leader McCarthy, Minority Leader
McConnell, and Senators Booker and Wyden:

We, the undersigned State Attorneys General, are a bipartisan group of state attorneys general who share a strong interest in defending states' rights, protecting public safety, improving our criminal justice systems, and regulating new industries appropriately. We submit this letter in response to your request for comments to the discussion draft of the Cannabis Administration and Opportunity Act, which calls for the federal legalization of cannabis, along with a federal regulatory regime that aims to protect public health, ensure consumer safety, and promote social equity in the emerging cannabis marketplace. This letter neither endorses nor opposes the Act, or the decision of any state's or territory's particular approach to cannabis policy. Rather, we recognize that federal legislation, if enacted, will increase the already-pressing need for cooperative federal-state oversight of products that contain cannabis or cannabis-derived compounds, to promote public health and safety.

Over the past 25 years, numerous States have made the decision to legalize cannabis for medical or recreational uses. More are likely to do so in the future. It is clear that the rapidly expanding cannabis market should not regulate itself and that a cooperative federal-state regulatory partnership is necessary to govern the industry in a manner consistent with the need for consumer protection.

The inherent complexity of cannabis and cannabinoids raises legitimate public health and public safety concerns that, absent appropriate federal and state regulation, could put consumers

and the public at risk. In order to protect the health and wellbeing of individuals who consume cannabis as well as the general public, “legalized” States have developed strong regulatory systems governing the cultivation, manufacturing, testing, and marketing of cannabis and cannabis-derived products. However, the complexities of regulating the cannabis plant and its constituents, especially those that move in interstate commerce, require federal partnership. It is imperative that legislation legalizing cannabis under federal law be accompanied by a post-legalization federal regulatory regime that respects federalism while working in concert with existing state regulation. In our view, it is now time for the federal government – in cooperation with States – to develop an efficient and effective regulatory framework, so that federal legalization, if and when it occurs, does not lead to a chaotic market where needed regulation is absent. Any regulatory framework must strike the right balance. It must avoid both under regulation and overregulation, allowing the development of a legal cannabis industry while implementing necessary public health and public safety oversight.

By using their existing expertise and organizational structure, federal agencies have the opportunity to ensure a safe product supply chain without having to build a regulatory regime from square one. For example, the Food and Drug Administration (FDA) will play a critical role in establishing national manufacturing, testing, and marketing standards so consumers are not at risk of misleading advertising or harm to their health from dangerous additives or undisclosed risks of use. The Environmental Protection Agency (EPA) will need to establish the regulation of pesticides used in cannabis production as an important part of preserving a healthy supply chain. Finally, regulation by the Alcohol and Tobacco Tax and Trade Bureau (TTB) should include measures similar to the licensing and taxation of alcohol and tobacco for reasons of revenue and distribution control. Yet, any federal regulatory system must work in concert not conflict with current state regulatory models and respect the ability of states to impose stricter standards of control.

In our view, any legalization of cannabis at the federal level should respect States’ efforts to date to address the impact of federal prohibition of cannabis, while, at the same time, leaving intact the authority of States to make their own decisions about the legalization, or prohibition, of cannabis under state law.

For our part, State Attorneys General are the primary enforcers of state consumer protection laws. We must remain steadfast in our critical role of preventing adverse public health effects associated with cannabis consumption, including diversion to minors, drugged driving, and harms arising from false or misleading advertising.

There is a long history of successful partnerships between federal and state regulatory agencies whose mission is to protect the public health, safety and welfare. Such collaborative efforts will be critical in the future regulation of cannabis. A regulatory model that applies existing federal health and safety standards to cannabis products, while preserving the States’ role in the regulation and control of cannabis, will provide the strongest possible protections against the known and unknown risks associated with legalization.

We appreciate Congress’ willingness to consult with State Attorneys General on these and other critical issues. And we ask that, in its work to implement a federal regulatory system focused on protecting public health and consumer safety, Congress will continue to recognize the crucial

role that States play in this emerging market. We look forward to working with you and to providing further information and support as you continue your work on this issue.

Sincerely,



Mark Brnovich,
Arizona Attorney General



William Tong,
Connecticut Attorney General



Thomas "TJ" Donovan,
Vermont Attorney General



Wayne Stenehjem,
North Dakota Attorney General