



Washington State Legislature

P. O. Box 40600, Olympia, Washington 98504-0600

August 23, 2017

The Honorable Jefferson B. Sessions, Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

As members of the committees of the Washington State Legislature that deal with marijuana issues, we feel compelled to respond to your letter to Governor Inslee and Attorney General Ferguson, dated July 24, 2017, in which you express a variety of concerns regarding the regulation of the legal marijuana market in Washington State in relation to the guidelines provided by Cole Memorandum, issued by the Department of Justice in 2013. The members of the Washington State Legislature have been committed to ensuring a safe system for the residents of the state and have made significant policy changes over the last few years. We have worked in a bipartisan, bicameral partnership in order to implement a regulatory framework that works within the priorities of the Department of Justice.

At the outset, we wish to point out that the legalization of marijuana in Washington in 2012 was accomplished through a citizens' initiative. Since that time, both houses of the Washington State Legislature have been engaged in a bipartisan effort to implement and perfect a regulatory system designed to achieve the following goals : (a) ensure that minors do not have access to marijuana; (b) implement a "traceability system" that prevents legal marijuana from being diverted to the illicit market; (c) prevent involvement by criminal enterprises and eliminate the illicit market altogether; and (d) provide funding for drug treatment, health care, public education, and medical research.

While we appreciate that the concerns expressed in your July 24 letter arise out of a sincere desire to ensure that marijuana legalization does not lead to an expansion of drug-related criminal activity or exacerbate public health and safety issues related to marijuana use, we believe your comments reflect a misunderstanding of what has happened in Washington State since recreational marijuana was legalized in 2012. More specifically, we believe that the analysis set forth in the "Washington State Marijuana Impact Report," issued in 2016 by the Northwest High Intensity Drug Trafficking Area (HIDTA), fails to accurately describe the current functioning of Washington's marijuana market, the nature of our regulatory system, and legalization's impact on the citizens of this state. Accordingly, through this letter we hope to provide facts and contextual information that will enable you to better understand the status of

Washington's legal marijuana market and the effectiveness of the regulatory measures we have enacted since legalization.

In its examination of Washington's regulatory framework, the 2016 HIDTA report fails to consider that in 2015 the Legislature passed Second Substitute Senate Bill 5052 (2SSB 5052). This legislation aligned the regulatory systems for medical and recreational marijuana and eliminated the unlicensed and poorly regulated medical marijuana dispensaries which had proliferated since medical marijuana was first legalized in 1998. Pursuant to 2SSB 5052, medical marijuana is now subject to the same stringent regulatory provisions applicable to recreational marijuana, including requirements that commercially grown medical marijuana be included in the marijuana traceability system. In addition, under to 2SSB 5052, all unlicensed medical marijuana dispensaries in Washington State were shut down as of July 1, 2016. Since then, medical marijuana has been marketed only through licensed recreational marijuana retailers who possess a medical marijuana license endorsement issued by the Washington State Liquor and Cannabis Board (LCB), which now has full regulatory authority over both the medical and recreational marijuana markets.

One cannot overemphasize the importance of the elimination of unlicensed medical marijuana dispensaries and the inclusion of medical marijuana in the traceability system, insofar as these steps have greatly reduced the likelihood of legal marijuana being diverted into the illicit market. Although the regulatory alignment of recreational and medical marijuana has been in place for little more than one year, we are confident that over time this step will dramatically reduce diversions, eliminate a source of marijuana that was once potentially accessible by minors, and facilitate the decline of the illegal market.

Also, we believe that the findings in the 2016 HIDTA report suggesting that legalization has led to minors having easy access to marijuana and, in turn, to the increasing use of marijuana by minors, is inconsistent with the available facts. After surveying over 230,000 students from over 1,000 schools, the 2016 Washington State Healthy Youth Survey concluded that, notwithstanding the legalization of marijuana in 2012, rates of teen marijuana use have remained steady. In addition, the LCB has implemented a rigorous monitoring and enforcement program designed to ensure that licensed retailers are not selling marijuana to minors. As the result of this program, the rate of compliance by marijuana retailers has been very high and is, on average, 10 percent higher than the compliance rate of liquor retailers with respect to youth access.

Furthermore, the Legislature has recently enacted legislation prohibiting marijuana retailers from engaging in advertising practices that might appeal to minors and limiting minors' overall exposure to marijuana advertising. Specifically, during the 2017 session, the Legislature enacted Engrossed Substitute Senate Bill 5131 (ESSB 5131), which placed stringent limitations on advertising by retailers. Under ESSB 5131, outdoor advertising signs, including billboards, are limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business. Such signs may not contain any depictions of marijuana plants, marijuana products, or images that might be appealing to children.

While there are many more points we could make regarding Washington State's efforts to implement a robust regulatory system for both recreational and medical marijuana, we trust that the foregoing discussion demonstrates that the Legislature has made every effort to comply with the guidelines in the Cole Memorandum and, in the process, ensure that public health and safety needs are met in the regulation of our legal marijuana market. We hope to engage in a continuing dialogue with the Department of Justice regarding these matters and would welcome the opportunity to meet with you to discuss any additional concerns you might have.

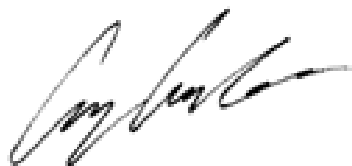
Sincerely,



Representative David Sawyer, Chair
Commerce & Gaming Committee
Washington State House of Representatives



Senator Ann Rivers, Chair
Health Care Committee
Washington State Senate



Representative Cary Condotta
Ranking Minority Member
Commerce & Gaming Committee
Washington State House of Representatives



Senator Karen Keiser
Ranking Minority Member
Commerce, Labor & Sports Committee
Washington State Senate