



**TESTIMONY OF
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BEFORE THE

Senate Banking, Housing, and Urban Affairs Committee

“Examining Cannabis Banking Challenges of Small Businesses and Workers”

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Chairman Brown, Ranking Member Scott, Members of the Committee, thank you for inviting me to testify before you today. My name is Kevin Sabet, and I am the President and CEO of Smart Approaches to Marijuana, a non-partisan, non-profit organization dedicated to promoting a health-first approach to drug policy. I served in three White House drug policy offices, for both Democrats and Republicans, most recently for President Obama from 2009 to 2011. In 2013, Representative Patrick Kennedy and I founded SAM, along with top scientists from around the country. SAM believes no one should be incarcerated just because they got caught with a joint, but we also believe that we should not create a new addiction-for-profit industry in the model of Big Tobacco. SAM partners with a wide variety of like-minded organizations, including major medical societies, treatment and recovery advocates, law enforcement organizations, the NAACP, AAA, Parent-Teacher Associations, and drug prevention groups to advocate for a better, safer, more equitable approach to drug policy.

Overview

There are three main problems with passing the so-called SAFE Banking Act:

1. Today’s marijuana is dangerous, and this bill would open the marijuana industry to major institutional investors who will create even more hazardous products.
2. This bill would open the U.S. financial system to activity from transnational criminal organizations who intend to harm Americans.

3. It purports to fix a fake problem. Today’s marijuana businesses are not dealing primarily with cash; there are hundreds of banks working with pot businesses, as outlined, for example, in a recent Bloomberg News piece entitled “Cannabis Banking Is Booming Despite Federal Uncertainty.”ⁱ

The Potential Increase of Wide-Spread Investments in the Marijuana Industry

I want to examine two scenarios that could result from the passage of the SAFE Banking Act.

The first is the best-case scenario, and the intended effect of the bill: let’s say only state-licensed marijuana producers and stores participate in the federal banking system. This presents us with problem number one.

For expert testimony on the purpose of the SAFE Banking Act, I refer you to former Speaker John Boehner's marijuana investing seminarⁱⁱ, in which you find these statements, “I was on the board of a major tobacco company, Reynolds. You think Big Tobacco is staying on the sidelines? I've talked to these guys, they are not going to sit this one out. And they have the dollars to acquire whoever they want...” His seminar partner said, “With traditional investments, only seventeen-and-a-half percent of the money comes from little fish like you and me. The other eighty-two-and-a-half percent is from the big players, the major investment firms, hedge funds, pension funds, established corporations. Banking restrictions are preventing almost all of those investment firms and funds from diving headfirst into cannabis.” Boehner continued, “Well, they're dying to get in. I'm helping some of these bigger fish get ready to invest. There are hundreds of billions of dollars sitting on the sidelines.

The SAFE Banking Act could have been drafted to narrowly address point-of-sale transactions. Instead, the bill is written specifically to allow those “hundreds of billions of dollars sitting on sidelines” to invest. Does anyone think that public health is going to be the driving force behind these multinational corporations who must report quarterly earnings? For a preview, we need only to look to Canada, where the CEO of a major marijuana corporation was ousted for a single quarter of poor sales, and Altria (formerly Philip Morris) has made a multibillion-dollar investment into the marijuana industry. We should also note that the former CEO of Purdue Pharma—who oversaw all of Oxycontin’s deceptive marketing practices—saw his next big business opportunity in leading a marijuana company.

Moreover, despite assurances to the contrary, the marijuana industry has little interest in advancing racial equity. Following more than a decade of commercialization, [only 2%](#) of business owners in the industry are Black. We have also seen how the industry targets vulnerable communities, including [low-income communities](#) and communities of color. The industry is disproportionately concentrating dispensaries in these communities, which results in the disproportionate concentration of marijuana’s health-related harms and the continuation of pre-

existing disparities. Legalization and commercialization will continue to fail to live up to their lofty goals of achieving racial equity.

The Influx of Potent Products into the Market

It's also important that we not deal with this question in the abstract. When you see marijuana on TV, you see fields or warehouses of what many assume is a harmless plant. They make it look innocuous. What they don't show you are the concentrates and extraction systems, because industrial-scale extraction looks like something straight out of the television show *Breaking Bad*. Yet, concentrates are what they are heavily promoting on social media. Marijuana is not just a plant anymore. It has been highly processed into something that cannot be found in nature and has a devastating impact on the brain in terms of addiction and mental health. One kind of marijuana concentrate, called 'shatter,' from Acreage Holdings, is from former Speaker Boehner's new gig. It has marijuana strains with names like "Thin Mint Girl Scout Cookies."

I also want to address kid-friendly edibles. You see, under the marijuana industry's logic, kids are only attracted to gummies in the shape of animals or cartoon characters, not to brightly colored, sugar-coated gummies in the shape of vegetables, geometric shapes, or pot leaves. Washington State got so frustrated with the number of children ending up in emergency rooms from accidental ingestion of pot candies that they were going to ban them completely— but it only lasted a week, and the marijuana industry released their new plan to self-regulate with brightly colored geometric shapes and pot leaves only.

For evidence of the adverse effects of these products, one can look at our 10-year experience in the US with the legalization, commercialization, and normalization of marijuana. According to the National Survey on Drug Use and Health, there were 52.45 million past-year marijuana users 12 or older in [2021](#), compared to 31.53 million in 2012 and 25.76 million in [2002](#). The rate of past-month use, a measure indicative of more frequent use, has grown at an even more concerning rate: there were 14.58 million in 2002, 18.86 million in 2012, and 36.36 million in 2021. The rate of daily or almost daily use has more than quadrupled, increasing from 3.13 million in 2002 to 5.35 million in 2012 and 13.25 million in 2021. For context, there were 12.58 million daily users of alcohol in 2021. More people are using marijuana, and they are using it more heavily.

Similarly, the rate of marijuana use disorder, also known as addiction, has been trending upward. In 2002, 4.29 million Americans 12 or older had a marijuana use disorder, compared to 4.42 million in 2018 and 4.84 million in 2019, the last year the DSM-IV definition was used. Following the transition to DSM-V, 14.21 million were estimated to have marijuana use disorder in 2020 and 16.27 million were estimated to have it in [2021](#). More Americans are getting addicted to marijuana.

Alongside increases in the rates of use have been increases in the adverse effects related to use. There were 804,285 marijuana-related emergency department visits in 2021, according to the [Drug Abuse Warning Network](#). Of concern, more than 72,000 involved children younger than the age of 18. Black individuals accounted for more than 195,000, or 24.27%, indicating that the adverse effects of use are disproportionately harming communities of color.

In 2021, according to the [National Poison Data Center](#), there were 7,692 calls to poison control centers about marijuana-infused edibles, 7,625 about dried marijuana, 1,138 about concentrated extracts of marijuana, and 1,014 about synthetic marijuana, among other forms. Regarding single exposures involving edibles, for example, approximately 43% of calls, or nearly 3,000, were for children 5 or younger, and approximately 18%, or nearly 1,300, were for children between the ages of 6 and 12. Irresponsible adults are leaving their marijuana out around the house, and it is having tragic consequences for their children, who unknowingly eat it and find themselves needing to be rushed to the hospital.

In fact, 1 in 3 users are estimated to have a [marijuana use disorder](#). Daily users of marijuana above 10% THC are nearly five times more likely to develop [psychosis](#) than non-users of marijuana. Users of [high-potency marijuana](#) are four times more likely than users of low-potency products to become addicted to marijuana. The National Institute on Drug Abuse states, “The risks of physical dependence and addiction increase with exposure to high concentrations of THC, and higher doses of THC are more likely to produce anxiety, agitation, paranoia, and psychosis.” Just last week, a study came out about the link between marijuana use disorder and schizophrenia, finding that as many as 30% of cases of [schizophrenia](#) among males aged 21–30 could have been prevented if we had averted marijuana use disorder.

So, that is the best-case scenario, if everything goes according to plan: more money, more customers, more profit, more destruction.

The Potential Increase of Cartel Activity

But there is a much darker possibility, and it doesn’t require a stretch of the imagination because it is already happening. This is concern number two. International cartels have infiltrated legalized states and have used the cover of legalization to conduct massive grow operations, often in upscale neighborhoods.ⁱⁱⁱ The SAFE Banking Act provides a scalable new avenue for these cartels to infiltrate the banking system in a much more systematic way.

For example, I refer you to a letter from 2023 from a bipartisan group of former Administrators of the Drug Enforcement Administration and Directors of the White House Office of National Drug Control Policy who describe a threat that parallels the multibillion-dollar Black Market Peso Exchange.

To quote from the letter:

“Because cash made from the sale of marijuana looks the same regardless of what it was used to pay for, it will be extremely difficult for banks to know whether large bundles of cash presented for deposit were made from the sale of marijuana rather than from the sale of heroin, fentanyl, or methamphetamine.

“In short, the SAFE Banking Act could inadvertently allow cartels to bring into banks duffel bags of cash made from the sale of those illicit drugs that are killing tens of thousands of Americans every year.”

Notably, they concluded, “We urge the Senate Banking Committee to reject the SAFE Banking Act and other legislation that would give these cartels more cover and more access to the U.S. financial system.”

This letter helps explain why eliminating cash will never stop marijuana dispensaries from being targeted for robbery: in the majority of cases, the burglars are there to steal marijuana, not cash. The marijuana is more easily accessed and is extremely valuable in its own right. A marijuana store is more akin to a jewelry store than a convenience store. A recent illustration comes from thieves who backed a pickup truck into a Michigan pot shop, stole all of the marijuana, and then left. They came back 20 minutes later to steal the ATM as an afterthought.^{iv} Moreover, in December 2022, thieves in Los Angeles stole “[hundreds of pounds of marijuana](#)” from a dispensary. And in March 2023, criminals in Santa Cruz stole “[half a million dollars worth](#)” of marijuana.

This leads us to reason three—the fake excuse to support this bill. It is built around a lie that these businesses mainly deal only with cash. In fact, the U.S. Department of Treasury’s Financial Crimes Enforcement Network reported that [nearly 800 banks](#) worked with marijuana businesses in the fourth quarter of 2022, up from 54 in the first quarter of 2014. Our own investigation revealed that many marijuana dispensaries accept credit and debit cards as payment, debunking the myth that they are forced to operate as cash-only businesses.

More broadly, supporters of legalization assured the general public that this policy experiment would result in the displacement of the illicit market—consumers would purchase from dispensaries, not dealers on the corner, they argued. However, as we have seen in states across the country, the opposite has occurred. The expansion of the illicit market has coincided with the legalization of marijuana, to the detriment of public health and safety.

According to a September 2022 report from Leafly, a pro-marijuana publication, 80% of marijuana sales in New Jersey continue to occur in the illicit market. In Michigan, they estimated that 60% of sales occur in the illicit market. And in California and Illinois, it is 55%. As we have recently seen in New York, particularly in New York City, legalization has given illicit operators cover to open unregistered, unlicensed dispensaries—[1,400 illicit shops](#) have popped up in New York City alone. Evidently, legalization has failed to eliminate the black market and, in some

regards, has exacerbated it. The SAFE Banking Act would add fuel to the fire by allowing illicit actors to launder and deposit their illicit proceeds.

The U.S. Department of State's International Narcotics Control Strategy Report [mentioned](#), "U.S. consumer demand for illicit marijuana has increased following marijuana regulation in several U.S. states, due to higher costs for legal marijuana and reduced illicit domestic production." Additionally, the DEA's most recent [National Drug Threat Assessment](#) stated, "some marijuana produced by state-licensed growers is diverted and sold illicitly rather than through state-licensed retailers," suggesting that legalization often fuels the black market rather than replaces it.

What This Bill Is Not About

Cannabidiol (CBD) and hemp were federally descheduled through the 2018 Farm Bill, and hemp growers have full access to banking services. FDA-approved CBD products have been demonstrated through clinical trials to have a medicinal benefit for certain childhood seizures.

By contrast, marijuana producers are growing and manufacturing incredibly high-potency products that are orders of magnitude stronger than anything available in the Woodstock days. What we think of as marijuana from those days was only 1-3% THC and contained a relatively high proportion of CBD, which acted as a neuroprotective agent. Today's marijuana concentrates can have up to 95% THC and no CBD. Between 1995 and 2021, the average potency of marijuana increased from 3.95% to 15.34% THC, while the percentage of CBD has remained below 0.5%. The average potency of vapes and concentrates has increased at a similar rate.

Nora Volkow, the director of NIDA, testified, "The increasing availability and potency of cannabis along with the proliferation of new cannabis products and methods for consuming them raise [serious public health concerns](#)," adding "the risks of physical dependence, addiction, and other negative consequences increase with frequent use and exposure to high concentrations of THC." And the Colorado Department of Public Health & Environment concluded, "[it is clear](#) that use of products with high concentrations of THC are associated with higher rates of psychiatric disorders, such as schizophrenia, psychosis, and generalized anxiety disorder."

What do you think is driving the increase in the potency of marijuana? The profit-driven marijuana industry. By getting more individuals addicted to marijuana, they can convert non-users and occasional users into lifelong customers. Drawing on the previously cited rates of use and marijuana use disorder across the country, we are seeing this strategy play out with tragic consequences. What's more, though the American Medical Association has called for the potency of marijuana to be limited—only a few states have adopted sensible potency caps—the industry continues to lobby fiercely against these regulations. The marijuana industry will continue to produce, promote, and sell ever-stronger products, with little to no regard for public health and safety.

We often hear that supposedly “47 states have legalized some form of cannabis” and we have to do something to accommodate those states. First of all, many of those states only created programs for compassionate distribution of non-intoxicating CBD, which was also federally legalized when produced from hemp in the 2018 Farm Bill. It is disingenuous to lump in those states when they now have a pathway to full compliance with federal law. I disagree that we should be fully legalizing and commercializing high-potency marijuana, but if the other witnesses want to do it, they should follow the path of the Farm Bill and have that debate.

Other states have more cautious medical marijuana programs, not allowing it to be smoked, and could conduct research programs that could be converted into legitimate FDA clinical trials with early access programs for suffering people. There is a right way to research and prescribe medicines, and that path runs through the FDA approval process.

On the other extreme are states like California, where anyone can qualify for a medical marijuana card under the thinnest of pretexts, and it essentially functions as recreational marijuana for anyone willing to go through the minor inconvenience of a pot doctor's recommendation via a 5-minute Skype session.

And then there are the states that have legalized and commercialized recreational marijuana. These states are doing an abysmal job of regulating the drug, with rampant underground markets, out-of-state diversion, the highest rates of youth use in the nation, skyrocketing use for 18–24-year-olds (when the brain is still developing), and as much as a doubling in fatalities due to marijuana impaired driving.^v We should not be expanding that failed experiment to other states.

Indeed, the voters in Arkansas, North Dakota, South Dakota, and Oklahoma recently rejected ballot measures to legalize and commercialize recreational marijuana. These outcomes suggest that support for legalization was initially overestimated and that the public is becoming increasingly aware of the unintended consequences associated with his incautious policy.

Whose Problem Are We Solving?

Today's modern marijuana industry is structured around catering to heavy users. Daily and near daily users consume 87% of the marijuana in the state of Colorado.^{vi} If you want to be successful in the marijuana business, that's who you have to sell to, and those users have built up a high tolerance and high dependence. Marijuana businesses must meet the demand they have created if they want to stay in business and not lose their customers to competitors. If they don't aggressively market the highest potency products available, someone else will and they will lose market share. Therefore, the business model becomes the highest potency for the cheapest price, and no state has successfully implemented a potency cap. Advancing a business model of creating new instances of substance use disorder during an addiction crisis is grossly

irresponsible as a matter of public policy. Notably, according to the 2021 National Survey on Drug Use and Health, among past month users, there were about five times as many daily users of marijuana as alcohol.

The Addiction Crisis

The fundamental question before us today is whether we should promote and normalize drug use during an overdose and addiction crisis or discourage it and help people seek treatment and achieve recovery. By skipping ahead to a technicality over banking rules, the profit-driven marijuana industry is hoping to gain many of the benefits of federal legalization while averting a debate over the public health effects associated with this policy. But make no mistake, a policy change around banking would have massive public health and safety ramifications, so we are shirking our duties if we do not consider the full question. The so-called SAFE Banking Act—which should be called the Addiction Banking Act—will allow the expansion of an industry pushing new, exponentially more powerful derivatives of marijuana before any of its health or other societal impacts are fully understood.

Banks currently want to have it both ways: they say they are not taking a position on legalization, but they want to profit from a fabulous new line of business: depositing federally illegal proceeds. As I am sure you know, marijuana remains a Schedule 1 substance, meaning it has a high potential for abuse and no accepted medical benefit. I am amazed that no one has called them on it. It is an untenable position. If they want to benefit from the sale of 99% potency concentrates, marijuana-infused candies and gummies, and high-potency vapes that are marketed to young demographics through social media influencers using the playbook pioneered by Big Tobacco, they should be consistent and argue to have those things legalized and advertised. But they are not doing that, because they know that their public reputation would take a hit. So instead, they argue that they should participate in what is literally the definition of money laundering for federally illegal proceeds but be held harmless for the damage to public health and public safety.

We at SAM deal every day with families who have lost loved ones to addiction, and marijuana is a major part, if not the defining feature, of all of their stories. Contrary to the claims of the marijuana industry and legalization advocates, legalization is not resulting in a reduction in opioid deaths. These claims have been thoroughly debunked in recent studies in the *Proceedings of the National Academies of Sciences* and elsewhere.^{vii} Instead, in a study of 34,000 individuals, marijuana users were discovered to be more than two times as likely to misuse prescription opioids or initiate non-prescription use of opioids.^{viii}

There is still an opportunity for the other witnesses at this table to wash their hands of the marijuana industry and say, “we want no part of this coming nightmare.” But, if they proceed, at least it will be with the full knowledge of what they are investing in: preying on the vulnerable

through the marketing of high potency and kid-friendly products, and producing new cases of substance use disorder and serious mental illness.

We can see where this is leading in our neighbor to the north, where Altria, formerly Philip Morris, the manufacturer of Marlboro cigarettes, has made a multi-billion-dollar investment into the marijuana industry, paired with an even bigger investment in vaping giant Juul. These investments will have business synergy, as the latest data shows a 63% increase in youth vaping of marijuana in Juul-like devices.^{ix} It took us over 100 years to reverse the public health impacts of the tobacco industry, who continually cast doubt on public health advocates with industry-funded bunk science. We have a chance today not to repeat those mistakes.

I appreciate the opportunity to appear before this Committee and thank in advance for thinking about our Nation's youth as you craft drug laws. I look forward to answering any questions you may have.

ⁱ See <https://www.bloomberg.com/news/newsletters/2022-01-18/marijuana-banking-is-moving-forward-despite-federal-uncertainty>

ⁱⁱ <https://www.youtube.com/watch?v=CZXGiRcXLJo>

ⁱⁱⁱ <https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666> ; <https://www.pbs.org/newshour/show/how-colorados-marijuana-legalization-strengthened-the-drugs-black-market>

^{iv} <http://www.fox2detroit.com/news/local-news/thieves-crash-truck-into-detroit-marijuana-dispensary-steal-pot-atm>

^v <https://learnaboutsam.org/wp-content/uploads/2019/06/2019-Lessons-Final.pdf>

^{vi} Colorado Department of Revenue: Market Size and Demand for Marijuana in Colorado (2017).

^{vii} Shover et. al., Association between medical cannabis laws and opioid overdose mortality has reversed over time. *PNAS*, Jun 10, 2019. <https://doi.org/10.1073/pnas.1903434116>

^{viii} <https://www.drugabuse.gov/news-events/news-releases/2017/09/marijuana-use-associated-increased-risk-prescription-opioid-misuse-use-disorders>

^{ix} Johnston, L. D., Miech, R. A., Bachman, J. G., Schulenberg, J. E., & Patrick, M. E. (2018). *Monitoring the Future National Survey Results on Drug Use 1975-2018. Overview, Key Findings on Adolescent Drug Use*. Ann Arbor: Institute for Social Research, University of Michigan.