

Senator Jeff Merkley
SAFE Banking Hearing Testimony Before the Senate Banking, Housing, and Urban Affairs
Committee
May 11, 2023

Chairman Brown, Ranking Member Scott, members of the Committee, thank you for holding this critical hearing today on our SAFE Banking Act. And thank you for the invitation to come and testify on an effort I began over eight years ago and have partnered with bi-partisan colleagues, including Senators Gardner and now Daines, to advance. And, of course, I'd like to thank Chairman Brown for his partnership on this legislation and for months of collaboration to get us here today.

At this moment, more than half of all states across our nation have some form of legalized cannabis – 37 states, plus DC have it for medicinal purposes while 21 have made it legal for recreational use.

Today, legalized cannabis is an industry that supports more than 428,000 jobs¹ and accounted for over \$25 billion in sales in 2021. In my home state of Oregon, we had nearly \$1 billion in sales last year, with the taxes generated from those sales going to help fund our schools, mental health and substance abuse treatment programs, as well as law enforcement and city and county needs.

But our Federal law has not kept pace with Americans' changing attitudes towards cannabis, nor with the changing laws at the state and local level. That refusal to change denied these legitimate businesses the ability to access the same basic necessities as every other business – whether it's access to banking and credit card accounts, payroll services and more – because depository institutions and credit unions, worried they may be threatened with criminal prosecution under federal law, have largely refused to work with this industry.

This has forced nearly three-quarters of legitimate cannabis businesses to operate entirely in cash. The few financial institutions that do work with cannabis businesses charge hefty fees because of the legal risk and added layers of compliance. And this cash-only requirement trickles down far beyond just the cannabis retailers and growers. It effects the subcontractors who can only be paid in cash; the fertilizer providers and the seed sellers – practically any kind of small business associated in any way with this industry – all of whom can only carry out transactions in cash. It effects the employees of these legal cannabis businesses who can't be paid by check or direct deposit, meaning they have to walk around with wallets full of cash worried that they'll be a target for criminals on payday.

¹ <https://flowhub.com/cannabis-industry-statistics#:~:text=The%20cannabis%20industry%20supports%20428%2C059,cannabis%20as%20of%20January%202022>

Forcing legal business to operate in an entirely cash economy is terrible for accountability, but great for crime as it has left these businesses, and all those connected to them, open to violent crime, money laundering, theft, tax fraud and more.

There's no national database to compile the statistics of incidents connected to these businesses. But over the last 12 months, we've seen at least 129 robberies of Oregon cannabis businesses.² An unofficial tracker in the greater Seattle area showed that robberies of Washington cannabis retailers reached a 10-year high in 2022. A worker at a San Francisco dispensary was kidnapped in an armed robbery where \$30,000 in cash was stolen back in February.³ If these businesses had the ability to accept debit cards and credit cards, and use the same systems to pay their taxes and payrolls as every other business uses in this day of technology...it is indisputable the number of violent robberies would be far smaller.

The *Secure and Fair Enforcement Banking Act* – or *SAFE Banking Act* – that Senator Daines and I have introduced and led together– would ensure that these legitimate businesses, operating in compliance with state cannabis laws in those states where citizens have said they want legal and medical cannabis, will have access to all of the same financial services as every other business. And those financial institutions will be protected against prosecution or asset forfeiture *primarily* for providing services to a state-sanctioned cannabis-related business.

To be clear, banks will not be forced to provide services to these businesses, it simply creates a safe space for both the financial institutions and the legal cannabis industry.

It explicitly extends the safe harbor to Community Development Financial Institutions (CDFI) and Minority Depository Institutions (MDI) – who serve underserved communities facing challenges in accessing capital and provide affordable access to financial services – so they can also serve cannabis businesses.

And, after much consultation with colleagues and outside experts, it now includes provisions to address both concerns around equity and issues around law enforcement and money laundering raised in a memo released last year by the Department of Justice.

As a result, we have a piece of legislation that enjoys strong bipartisan, bicameral support from people who believe the time has come to change our approach to these industries and how they are able to operate.

It is beyond unacceptable that, with more than half the country embracing some form of legalized cannabis, we would continue to allow this dangerous and untenable situation of forcing legitimate business to operate entirely in cash here in the 21st Century. I'd like to submit into the record letters from current Oregon cannabis retailers sharing their own stories of the challenges and dangers facing them in this all-cash environment. Each of these stories represents thousands more just like them all across the country.

² <https://www.oregon.gov/olcc/marijuana/Pages/marijuana-thefts.aspx>

³ <https://sfstandard.com/criminal-justice/armed-kidnappers-target-cannabis-shop-run-by-anti-violence-leader/>

So Mr. Chairman, Mr. Ranking Member, and all the members of this Committee, I urge you to work quickly to consider and pass this bill and make our communities safer by ensuring equal access to the financial system for the cannabis industry. Thank you.