

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- However, this guidance was withdrawn in 2018, causing legal uncertainty that severely limits these state laboratories of democracy, creates public health and safety issues, and undermines the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.