

HEMP: THE GATEWAY TO FEDERAL LEGALIZATION OF MARIJUANA

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ABSTRACT

Hemp and marijuana have long been inextricably intertwined. The Agricultural Improvement Act of 2018, more commonly known as the 2018 Farm Bill, removed hemp from the definition of marijuana in the Controlled Substances Act and took the first significant step toward federal legalization of cannabis in almost 50 years. The 2018 Farm Bill laid out the regulatory groundwork for the federal legalization of marijuana by establishing extensive legislation permitting cultivation of hemp at the state level. Recreational use of marijuana is currently

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legal in 23 states. However, unlike hemp, marijuana remains illegal at the federal level. President Joseph (“Joe”) Biden has pardoned federal convictions for simple marijuana offenses and encouraged state governments to do the same and for the Department of Justice and the Department of Health and Human Services to review federal scheduling of marijuana. Moreover, most of the United States population favors legalization of both medical and recreational marijuana use. If a presidential call to action and high levels of public support were not enough, statistics from two states where recreational marijuana has been legal for a decade, Washington and Colorado, demonstrate that legalization of marijuana positively impacts the criminal justice system and state revenues. With a little help from hemp, federal legalization of marijuana is likely on the horizon.

I. INTRODUCTION

Hemp has been a prominent staple crop in United States agriculture since before the colonial era and throughout World War II.¹ Hemp is cultivable for its fibers which are used in ropes and textiles, its oils, and its grains.² American colonists were required to grow hemp to satisfy Great Britain’s demand for products manufactured from the plant’s fibers.³ Presidents Washington and Jefferson both cultivated hemp.⁴

1937 marked the beginning of legislative restraints on hemp cultivation and production with the passage of the Marihuana Tax Act.⁵ The Marihuana Tax Act did not criminalize possession or use of cannabis.⁶ Instead, the Act imposed licensing requirements and a tax on the cultivation of cannabis.⁷ Violations were punishable by fines and, in some instances, imprisonment.⁸

1. Mathew Wills, *The Return of Hemp*, JSTOR DAILY (July 25, 2021), <https://daily.jstor.org/the-return-of-hemp/> [https://perma.cc/NS86-H9YD].

2. Thomas J. McClure, *What’s the Buzz? 2018 Farm Bill*, STATE BAR OF WIS. (June 12, 2019), <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=92&Issue=6&ArticleID=27060> [https://perma.cc/2WUY-RH3C].

3. Gene Johnson, Associated Press, *A History of Weed: From Jefferson to Clinton to Washington*, MINN. PUB. RADIO (Dec. 6, 2021, 9:03 AM), <https://www.mprnews.org/story/2012/12/06/history-of-weed> [https://perma.cc/YY5L-GEHX].

4. *U.S. Hemp History*, HEMP INDUS. ASS’N (Sept. 18, 2023, 6:28 AM), <https://thehia.org/history/> [https://perma.cc/4JQY-E6KS].

5. *Id.*

6. *Marijuana Tax Act Law and Legal Definition*, U.S.LEGAL (Sept. 18, 2023, 6:29 AM), <https://definitions.uslegal.com/m/marijuana-tax-act/> [https://perma.cc/2J86-VYMQ].

7. *U.S. Hemp History*, *supra* note 4.

8. *Marijuana Tax Act Law and Legal Definition*, *supra* note 6.

World War II sparked a resurgence in the demand for hemp in the United States when foreign supply of hemp fiber was interrupted.⁹ To support wartime efforts, the USDA used the slogan “Hemp For Victory” to encourage domestic hemp production.¹⁰ Additionally, the War Hemp Industries Department was formed and subsidized hemp cultivation.¹¹ Across the Midwest, farmers grew nearly one million acres of hemp during World War II.¹² However, the end of the war signaled the end of the federal government’s interest in hemp production.¹³ Domestic production rapidly declined as cheaper foreign hemp fibers were once again readily available and hemp came to be associated with illicit marijuana.¹⁴ Hemp and marijuana were no longer officially distinguished after the passage of the Controlled Substances Act in 1970.¹⁵ The Controlled Substances Act categorized hemp as a Schedule I controlled substance along with LSD and heroin.¹⁶ Schedule I substances are drugs with “no currently accepted medical use and a high potential for abuse.”¹⁷

Recent legislative enactments at both the state and federal level have marked a new era for hemp. Hemp was removed from the definition of marijuana in the Controlled Substances Act by the 2018 Farm Bill.¹⁸ In 2019, Iowa Governor, Kim Reynolds, signed the Iowa Hemp Act altering the classification of hemp, allowing grants for hemp growing operations, and removing certain hemp-derived products from controlled substance status.¹⁹ Legislative attitudes toward hemp are not the only thing changing. 23 states and the District of Columbia have legalized recreational use of marijuana for adults.²⁰ “On October 6, 2022, President Biden

9. Wills, *supra* note 1.

10. *U.S. Hemp History*, *supra* note 4.

11. *Id.*

12. *Id.*

13. Wills, *supra* note 1.

14. *Id.*

15. *U.S. Hemp History*, *supra* note 4.

16. Wills, *supra* note 1.

17. *Drug Scheduling*, DRUG ENF’T ADMIN. (Sept. 18, 2023, 4:10 PM), <https://www.dea.gov/drug-information/drug-scheduling> [<https://perma.cc/537S-2HT3>].

18. *Understanding Hemp/CBD in Iowa*, BROWWINICK LAW (July 21, 2022), <https://www.brownwinick.com/blog/understanding-hemp/cbd-in-iowa> [<https://perma.cc/AAJ9-GGVY>].

19. *Id.*

20. Claire Hansen et al., *Where is Marijuana Legal? A Guide to Marijuana Legalization*, U.S. NEWS & WORLD REP. (Sept. 27, 2023), <https://www.usnews.com/news/best-states/articles/where-is-marijuana-legal-a-guide-to-marijuana-legalization> [<https://perma.cc/J8XK-44DU>].

issued a presidential proclamation [pardoning] federal convictions for simple marijuana possession offenses.”²¹

At the federal level, marijuana remains illegal. However, state and federal governments are taking steps toward relaxing restrictions on hemp, CBD, and marijuana. President Biden’s presidential proclamation pardoning simple marijuana offenses also included a call for state governments to do the same and for the Department of Justice and the Department of Health and Human Services to review federal scheduling of marijuana.²² Recent legislative enactments regarding hemp have laid a solid regulatory framework for federal legalization of hemp to transition to federal legalization of marijuana. Legislative advances coupled with a presidential call to action suggest federal legalization of marijuana, in some form, is on the horizon.

II. UNDERSTANDING HEMP, CBD & MARIJUANA

Hemp, CBD, and marijuana are all related, but they differ in important ways.²³ Hemp and marijuana belong to the same plant species, *Cannabis sativa* (cannabis).²⁴ While the two plants may appear similar, significant variation exists within the species.²⁵ There are several key categories of distinctions between hemp and marijuana: statutory definitions and regulations, chemical and genetic compositions, and production practices and uses.²⁶ The main distinguishing characteristic between hemp and marijuana is their respective levels of tetrahydrocannabinols.²⁷

21. *Presidential Proclamation on Marijuana Possession*, U.S. DEP’T OF JUST. OFF. OF THE PARDON ATT’Y (Sept. 11, 2023), <https://www.justice.gov/pardon/presidential-proclamation-marijuana-possession> [<https://perma.cc/WR5P-Y2WD>].

22. LISA N. SACCO, CONG. RSCH. SERV., IN11204, *THE SCHEDULE I STATUS OF MARIJUANA 1* (2022), <https://crsreports.congress.gov/product/pdf/IN/IN11204> [<https://perma.cc/4QLE-3SQV>].

23. Brandon R. McFadden & Trey Malone, *CBD, Marijuana, and Hemp: What is the Difference Among These Cannabis Products, and Which are Legal?*, THE CONVERSATION (April 1, 2021, 1:44 PM), <https://theconversation.com/cbd-marijuana-and-hemp-what-is-the-difference-among-these-cannabis-products-and-which-are-legal-154256> [<https://perma.cc/HNZ2-VBQY>].

24. *Id.* “Cannabis” and “marijuana” are commonly used interchangeably; however, “cannabis” is a general term referring to all products derived from the plant *Cannabis sativa*.

25. *Id.*

26. RENÉE JOHNSON, CONG. RSCH. SERV., R44742, *DEFINING HEMP: A FACT SHEET 1–2* (2019), <https://sgp.fas.org/crs/misc/R44742.pdf> [<https://perma.cc/N52E-LWAF>].

27. McFadden & Malone, *supra* note 23.

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A. Hemp

The 2018 Farm Act and the Iowa Hemp Act both define hemp as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”²⁸ Delta-9 tetrahydrocannabinol, more commonly referred to as THC, is the psychoactive cannabinoid found in the *Cannabis sativa* plant.²⁹ Both hemp and marijuana contain THC; however, hemp plants contain more cannabidiol (CBD) and less THC than marijuana.³⁰ This means hemp-derived products do not produce the “high” traditionally associated with marijuana.³¹ Generally, a THC level of 1% is considered the threshold amount for cannabis to have a psychotropic effect.³²

The Iowa Hemp Act further defines hemp-derived products and consumable hemp products.³³ A hemp-derived product is defined as “an item derived from or made by processing hemp or parts of hemp, including but not limited to any item manufactured from hemp, including but not limited to cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastic, hemp seed, seed meal, or seed oil.”³⁴ A consumable hemp product is “a hemp product that includes a substance that is metabolized or is otherwise subject to biotransformative process when introduced into the human body.”³⁵

B. CBD

CBD, like THC, is a chemical produced naturally by the *Cannabis sativa* plant.³⁶ Unlike THC, CBD does not produce a psychoactive effect.³⁷ CBD is

28. Agricultural Improvement Act of 2018, Pub. L. No. 115-334, sec. 10113, § 297A, 132 Stat. 4490, 4908 (codified as amended at 7 U.S.C. § 1639o(1)). The Iowa Hemp Act’s definition of hemp is nearly identical, with some minor changes. See IOWA CODE ANN. § 204.2(9) (West 2023).

29. JOHNSON, CONG. RSCH. SERV., *supra* note 26, at 3.

30. *Understanding Hemp/CBD in Iowa*, *supra* note 18.

31. JOHNSON, CONG. RSCH. SERV., *supra* note 26, at 2.

32. *Id.* at 3.

33. See IOWA CODE ANN. § 204.

34. *Id.* § 204.2(11)(a).

35. *Id.* § 204.2(2).

36. Peter Grinspoon, *Cannabidiol (CBD): What We Know and What We Don’t*, HARV. MED. SCH.: HARV. HEALTH PUBL’G (Sept. 24, 2021), <https://www.health.harvard.edu/blog/cannabidiol-cbd-what-we-know-and-what-we-dont-2018082414476> [https://perma.cc/LE8A-RF93].

37. *Id.*

reported to have a variety of therapeutic health benefits.³⁸ It is most commonly used to treat insomnia, seizure disorders, chronic pain, anxiety, and inflammation.³⁹ Currently, the only CBD product approved by the FDA is Epidiolex, a prescription medication approved to treat epilepsy.⁴⁰ Despite the lack of FDA regulation and approval, CBD is marketed and sold in many consumer products such as oils, pills, food, cosmetics, and lotions.⁴¹

C. Marijuana

Marijuana, or “marihuana,” is defined by the Controlled Substances Act as

. . . [A]ll parts of the plant *Cannabis Sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. The terms “marihuana” and “marijuana” do not include hemp . . . or the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.⁴²

Unlike hemp, the definition of marijuana does not specify a permissible level of THC or any other cannabinoid.⁴³ Despite this, a floor has been set where cannabis containing a THC concentration exceeding 0.3% falls under the definition of marijuana.⁴⁴ It is estimated the average THC level in marijuana is about 10%.⁴⁵ However, advancements in breeding have resulted in plant varieties with THC levels measuring above 30%.⁴⁶ Federally, marijuana is a Schedule I controlled substance under the Controlled Substances Act and has been since enactment of

38. Katie Rosenblum, *CBD: What You Need to Know Before You Try*, CEDARS SINAI (April 14, 2019), <https://www.cedars-sinai.org/blog/cbd-safe.html> [<https://perma.cc/UNT2-ZFWS>].

39. *Id.*

40. *CBD: What You Need to Know*, CTRS. FOR DISEASE CONTROL & PREVENTION (Aug. 8, 2022), <https://www.cdc.gov/marijuana/featured-topics/CBD.html> [<https://perma.cc/8Y5J-Q5QE>].

41. *Id.*

42. 21 U.S.C. § 802(16).

43. JOHNSON, CONG. RSCH. SERV., *supra* note 26, at 3.

44. *Id.*

45. *Id.* at 4.

46. *Id.*

the Act in 1970.⁴⁷ Accordingly, unauthorized manufacture, distribution, and possession of marijuana is strictly prohibited at the federal level.⁴⁸

III. LEGISLATIVE DEVELOPMENTS

A. 2018 Farm Bill

The Agricultural Improvement Act of 2018, more commonly referred to as the 2018 Farm Bill, “was passed with strong bi-partisan support in both the Senate (87-13) and the House (369-47).”⁴⁹ In addition to providing important agricultural and nutrition related policy extensions, the 2018 Farm Bill took the first major step towards federal legalization of cannabis in almost 50 years.⁵⁰ The 2018 Farm Bill allows for broad cultivation of hemp, far beyond the limited scope permitted under previous pilot programs which allowed hemp production for research purposes concerning growth, cultivation, and marketing.⁵¹ However, the 2018 Farm Bill is not without restrictions.

Under the 2018 Farm Bill, hemp is defined as a derivative of *Cannabis sativa* L. “with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent.”⁵² A delta-9 tetrahydrocannabinol concentration higher than 0.3% is considered marijuana under federal law and thus not subject to protections afforded by the Farm Bill.⁵³ Section 12619 of the Farm Bill removes hemp from the definition of marijuana under the Controlled Substances Act, thereby removing hemp from Schedule I status.⁵⁴ However, this carveout does not legalize cannabinoids generally.⁵⁵ The Farm Bill dictates any cannabinoid derived from

47. SACCO, CONG. RSCH. SERV., *supra* note 22, at 1.

48. JOHNSON, CONG. RSCH. SERV., *supra* note 26, at 1.

49. Jordan Waldrep, *How Cannabis Just Took a Step Towards Legalization in the U.S. Farm Bill*, FORBES (Jan. 3, 2019, 9:04 AM), <https://www.forbes.com/sites/jordanwaldrep/2019/01/03/how-cannabis-just-took-a-step-towards-legalization-in-the-us-farm-bill/> [<https://perma.cc/HNH5-474R>].

50. *Id.*

51. Blake Huser, Note, *Industrial Hemp: A Review of the Growing Industry*, 25 DRAKE J. AGRIC. L. 249, 253 (2020).

52. Agricultural Improvement Act of 2018, Pub. L. No. 115-334, sec. 10113, § 297A, 132 Stat. 4490, 4908 (codified as amended at 7 U.S.C. § 1639o(1)).

53. John Hudak, *The Farm Bill, Hemp Legalization and the Status of CBD: An Explainer*, BROOKINGS (Dec. 14, 2018), <https://www.brookings.edu/blog/fixgov/2018/12/14/the-farm-bill-hemp-and-cbd-explainer/> [<https://perma.cc/SQ45-RGXA>]; *see* 21 U.S.C. § 802(16).

54. Sec. 12619(a)(2)(B), § 102(16), 132 Stat. at 5018 (codified as amended at 21 U.S.C. 802(16)).

55. Hudak, *supra* note 53.

hemp will only be legal if produced by a licensed grower in a manner consistent with the Farm Bill and relevant state and federal regulations.⁵⁶ All other cannabinoids not produced in accordance with relevant regulations remain a Schedule I substance and thus illegal under federal law.⁵⁷

Under the 2018 Farm Bill, there is significant shared regulatory power between the federal and state governments over hemp production.⁵⁸ Section 10113 requires each state's department of agriculture to consult with their governor and the state's chief law enforcement officer to devise a plan which then will be submitted to the United States Secretary of Agriculture.⁵⁹ The state's plan must include, among other things, a procedure for maintaining information regarding land where hemp is produced in the state, a procedure for testing delta-9 tetrahydrocannabinol concentration levels, and disposal procedures for prohibited plants and products derived from those plants.⁶⁰ Once the Secretary of Agriculture approves the state's plan, the state may begin to license and regulate hemp cultivation.⁶¹ States may opt not to devise a regulatory program.⁶² In that instance, the USDA will construct a regulatory program under which hemp producers in such states must apply for licenses and comply with the prescribed federal program.⁶³

The Farm Bill also outlines actions constituting violations of federal hemp law. Offenses include failing to obtain required authorizations and producing cannabis with a delta-9 tetrahydrocannabinol concentration higher than 0.3%.⁶⁴ Different violations result in various consequences.⁶⁵ For instance, after three negligent violations in a five-year period, a five-year period of ineligibility to produce hemp will be imposed.⁶⁶ Further, individuals convicted of a felony relating to a controlled substance under state or federal law before enactment of the 2018 Farm Bill are ineligible to produce hemp for a period of 10 years following the date of the conviction.⁶⁷

56. *Id.*

57. *Id.*

58. *Id.*

59. Sec. 10113, § 297B(a), 132 Stat. at 4909 (codified as amended at 7 U.S.C. § 1639(p)).

60. *Id.*

61. *Id.* at sec. 10113, § 297B(b), 132 Stat. at 4910.

62. Hudak, *supra* note 53.

63. *Id.*

64. Sec. 10113, § 297B(e)(2)(A)(iii), 132 Stat. at 4911.

65. *Id.* at sec. 10113, § 297B(e)(2)(D), 132 Stat. at 4911.

66. *Id.*

67. *Id.* at sec. 10113, § 297B(e)(3)(B)(i), 132 Stat. at 4911–12.

The 2018 Farm Bill continues efforts of the 2014 Farm Bill to protect and generate further research regarding the various uses and therapeutic benefits of hemp.⁶⁸ Section 7605 recognizes the importance, diversity, and opportunity of hemp and hemp-derived products.⁶⁹ The provision legitimizes protections for hemp research, conditions under which research can be conducted, and includes hemp in section 7501 of the Critical Agricultural Materials Act.⁷⁰

B. Iowa Hemp Act

In 2020, Iowa farmers grew 680 acres of hemp.⁷¹ Without the passage of the 2018 Farm Bill and the Iowa Hemp Act such production would not be possible. Iowa Governor Kim Reynolds signed the Iowa Hemp Act into law in 2019.⁷² The USDA subsequently approved the Iowa Hemp Act pursuant to the regulatory scheme laid out in the 2018 Farm Bill.⁷³ Under the Iowa Hemp Act, and in line with federal classifications, hemp containing a delta-9 tetrahydrocannabinol concentration of less than 0.3% on a dry weight is no longer classified as marijuana.⁷⁴ The Iowa Hemp Act provides that the Iowa Department of Agriculture and Land Stewardship will prepare a plan to be submitted to the United States Secretary of Agriculture pursuant to federal hemp regulations.⁷⁵ Upon approval of the plan, the Iowa Department of Agriculture and Land Stewardship will assume primary regulatory authority over hemp production in Iowa with the Department of Public Safety handling criminal enforcement.⁷⁶

Hemp farmers can apply for a license to grow hemp, which then must be approved by the Department of Agriculture and Land Stewardship.⁷⁷ The application must include the applicant's full name and address, a legal description and map of the proposed crop site, number of crop acres to be used, the name of the hemp variety to be planted, and, if required, the results of a national criminal record

68. Hudak, *supra* note 53.

69. Sec. 7605, § 7606(c), 132 Stat. at 4829 (codified as amended at 7 U.S.C. § 5940).

70. *See id.* at secs. 7501(a), § 5(b)(9), 7605, § 7606(c), 132 Stat. at 4819, 4828–29.

71. *Iowa Hemp Law*, VOTE HEMP (Sept. 18, 2023, 6:42 AM), <https://www.votehemp.com/states/iowa-hemp-law/> [<https://perma.cc/NBS9-TZ62>].

72. *Understanding Hemp/CBD in Iowa*, *supra* note 18.

73. *Id.*

74. *Id.*

75. IOWA CODE ANN. § 204.3(1) (West 2023).

76. *Id.*

77. *Iowa's Hemp Law*, IOWA DEP'T OF AGRIC. & LAND STEWARDSHIP (Sept. 18, 2023, 6:41 AM), <https://iowaagriculture.gov/hemp> [<https://perma.cc/92CJ-UJED>]; *Understanding Hemp/CBD in Iowa*, *supra* note 18.

search.⁷⁸ “An initial hemp license expires one year from the date of issuance” and may be renewed and reissued on an annual basis.⁷⁹ An application for a license to grow hemp may be denied for a conviction of a criminal offense involving a controlled substance, revocation of a license to produce hemp in another state, or three violations of the Iowa Hemp Act in a five-year period.⁸⁰

The Iowa Department of Inspections and Appeals regulates consumable hemp products, including registration of manufacturers and retailers.⁸¹ A hemp product is “an item derived from or made by processing hemp or parts of hemp.”⁸² A consumable hemp product is

... a liquid or solid hemp product intended to be introduced into the human body by ingestion or internal absorption, including but not limited to: food, chew or snuff, oils and lotions, and hemp processed or otherwise manufactured, marketed, sold, or distributed as food (e.g., “gummies”), a food additive, a dietary supplement, or a drug.⁸³

“[C]onsumable hemp products manufactured or sold in Iowa must contain 0.3% or less” delta-9 tetrahydrocannabinol and are not classified as an illegal controlled substance.⁸⁴ “Consumable hemp products do not include [products] intended to be introduced into the human body by any method of inhalation.”⁸⁵ Inhalation of hemp or hemp-derived products by any method is a criminal offense in Iowa.⁸⁶ As such, an individual may not “possess, use, manufacture, market, transport, deliver, or distribute harvested hemp or hemp product[s]” if the purpose of doing so is for introduction into the body via inhalation.⁸⁷ Additionally, products marketed or intended to “cure, treat, mitigate, prevent disease, or affect the function of the human body,” including over the counter medications, are strictly prohibited.⁸⁸

An “individual or entity wishing to sell, manufacture, or store consumable hemp products in Iowa must register” to do so with the Department of Inspections

78. IOWA CODE ANN. § 204.4(2).

79. *Id.* § 204.4(7).

80. *Id.* § 204.4(10).

81. *Understanding Hemp/CBD in Iowa*, *supra* note 18; *Consumable Hemp*, IOWA DEP’T OF HEALTH & HUM. SERVS. (Oct. 18, 2023, 2:03 PM), <https://hhs.iowa.gov/consumable-hemp> [<https://perma.cc/XM83-YU83>].

82. *Consumable Hemp*, *supra* note 81.

83. *Id.*

84. *Id.*

85. *Id.*; *see* IOWA CODE ANN. § 204.14A(1).

86. *Consumable Hemp*, *supra* note 81; *see* IOWA CODE ANN. § 204.14A(1).

87. IOWA CODE ANN. § 204.14A(1).

88. *Consumable Hemp*, *supra* note 81.

and Appeals.⁸⁹ Out-of-state individuals and entities who wish to sell consumable hemp products in Iowa are also required to register.⁹⁰ To register, an individual or business must pay a fee, file a list of expected consumable hemp products, and provide information about the suppliers and manufacturers of the intended products.⁹¹ “Consumable hemp products in interstate commerce are subject to federal law.”⁹² As such, compliance with Iowa laws, or the laws of any other state, does not guarantee compliance with federal law.⁹³

C. The Future Hemp & Marijuana Legislation

1. 2023 Farm Bill

Every five years, the Farm Bill expires and requires reauthorization by Congress.⁹⁴ The 2018 Farm Bill expired in September of 2023.⁹⁵ State lawmakers and stakeholders in the hemp industry are advocating for several reforms to be included in the 2023 Farm Bill regarding hemp and the hemp industry.⁹⁶

One change advocates hope to see in the 2023 Farm Bill is an amended definition of hemp.⁹⁷ The proposed definition would raise the permissible level of delta-9 tetrahydrocannabinol in hemp from 0.3% to 1% on a dry weight basis.⁹⁸ Raising the delta-9 tetrahydrocannabinol limit would allow hemp producers additional leeway in harvesting and increase flexibility in conducting genetics research.⁹⁹

Another suggested reform is removing the ban prohibiting individuals with drug-related offenses from obtaining hemp licenses.¹⁰⁰ Under the 2018 Farm Bill, “any person convicted of a felony relating to a controlled substance under State or Federal law is ineligible to cultivate hemp for ten years following the date of

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. Andrea Golan, Vicente LLP, *Will the 2023 Farm Bill Address Hemp Industry Pain Points and Public Safety Concerns?*, JD SUPRA (Nov. 2, 2022), <https://www.jdsupra.com/legalnews/will-the-2023-farm-bill-address-hemp-6480144/> [<https://perma.cc/CLC7-GMG4>].

95. *Id.*

96. *Id.*

97. *See id.*

98. *Id.*

99. *Id.*

100. *Id.*

conviction.”¹⁰¹ Removing the ten year ineligibility period would increase access to the hemp industry by individuals and groups that have historically and disproportionately been impacted by drug policies.¹⁰² In 2020, black Americans accounted for nearly 38.8% of arrests for possession of marijuana despite comprising only 13.6% of the United States population and having a similar rate of marijuana use as white Americans.¹⁰³ Removing the ten year period of ineligibility would allow black Americans and other groups disproportionately impacted by drugs policies the ability to equally participate in a new and rapidly expanding market.

The FDA’s position on CBD is another issue hemp advocates want addressed in the 2023 Farm Bill.¹⁰⁴ It is estimated that if federal regulation of hemp-derived CBD “were to be implemented by 2024, sales [could] reach \$11.0 billion by 2027.”¹⁰⁵ The FDA has been heavily criticized regarding their inaction in regulating CBD.¹⁰⁶ “Accordingly, legislators have been encouraged to incorporate language into the 2023 Farm Bill regulating CBD and other non-intoxicating cannabinoids.”¹⁰⁷ Without clear instruction on CBD products from the FDA or Congress, growth in this area of the hemp industry has stagnated as retailers have opted not to carry certain hemp-derived products, “companies are reluctant to move forward with developing and manufacturing CBD-related products,” and farmers are left with no buyers for their crops.¹⁰⁸ Increased regulation would increase consumer protection and economic opportunities for hemp producers.¹⁰⁹ Regulation of hemp and hemp-derivatives through the 2023 Farm Bill “would

101. *Id.*

102. *Id.*

103. Katharine Neill Harris, *317,793 People Were Arrested for Marijuana Possession in 2020 Despite the Growing Legalization Movement*, THE CONVERSATION (Nov. 16, 2022, 8:29 AM), <https://theconversation.com/317-793-people-were-arrested-for-marijuana-possession-in-2020-despite-the-growing-legalization-movement-192788> [<https://perma.cc/JB2D-KX27>].

104. See Joseph Houchin, *Forecasting the 2023 Farm Bill and the Potential Impact on the Hemp Industry*, JD SUPRA (Oct. 21, 2022), <https://www.jdsupra.com/legalnews/forecasting-the-2023-farm-bill-and-the-8743071/> [<https://perma.cc/TMC8-HD3Q>].

105. Dario Sabaghi, *How the 2023 Farm Bill May Reshape the Hemp Industry*, FORBES (Aug. 3, 2022, 12:22 PM), <https://www.forbes.com/sites/dariosabaghi/2022/08/03/how-the-2023-farm-bill-may-reshape-the-hemp-industry/?sh=4c423d6c7a67> [<https://perma.cc/B8S7-YQ52>].

106. Houchin, *supra* note 104.

107. *Id.*

108. Houchin, *supra* note 104; Sabaghi, *supra* note 105.

109. Houchin, *supra* note 104.

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force new and stringent FDA compliance requirements on a currently unregulated market.”¹¹⁰

Advocates have also called for banking and insurance regulations for hemp.¹¹¹ “Without a [strong] regulatory framework for the industry, risk adverse insurance companies as well as banking and financial institutions have been wary of doing business with hemp” producers.¹¹² Calls have been made to establish well-defined compliance guidelines to encourage bank relationships and insurance coverage, “including implementation of USDA shipping approval rules” to ease concerns related to the interstate transport of hemp and hemp-derived products.¹¹³ Clear requirements would minimize compliance concerns and benefit all parties.¹¹⁴

2. *PREPARE Act*

In December of 2022, United States Senator from Colorado, John Hickenlooper, introduced the Preparing Regulators Effectively for a Post-Prohibition Adult Use Regulated Environment (PREPARE) Act.¹¹⁵ Senator Hickenlooper’s bill is a companion to legislation introduced by Representative David Joyce in the House.¹¹⁶ The bill seeks to “prepare the federal government and the variety of regulatory agencies for the eventual descheduling of cannabis at the federal level” by establishing a regulatory framework to be enacted upon federal legalization.¹¹⁷ The bill “directs the Attorney General to establish a ‘Commission on the Federal Regulation of Cannabis’ to advise on the development of a [federal] regulatory framework modeled after [existing] federal and state” regulations for alcohol.¹¹⁸

The proposed framework would “account for the unique needs, rights, and laws of each state, and [would] be presented to Congress within one year of

110. *Id.*

111. *See id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. *Hickenlooper Introduces Bill to Prepare for Marijuana Legalization*, U.S. SENATOR HICKENLOOPER FOR COLO. (Dec. 1, 2022), https://www.hickenlooper.senate.gov/press_releases/hickenlooper-introduces-bill-to-prepare-for-marijuana-legalization/ [<https://perma.cc/7PBL-W3A3>]. The Bill died in committee on January 3, 2023. Senator Hickenlooper recently reintroduced the bill on July 27, 2023.

116. *Id.*

117. U.S. SENATOR HICKENLOOPER FOR COLO., *PREPARE ACT SUMMARY 1* (Sept. 19, 2023, 6:34 AM), <https://www.hickenlooper.senate.gov/wp-content/uploads/2022/11/PREPARE-Act-Summary-.pdf> [<https://perma.cc/T8SF-SHJ5>].

118. *Id.*

enactment of the PREPARE Act.”¹¹⁹ The proposed framework would be required to include provisions to alleviate and remedy a variety of concerns, including: the impact of cannabis criminalization; the lack of cannabis research and medical training; the lack of consistent product safety, use, and labeling regulations; procedures for cannabis revenue reporting and collection; and protections for the hemp industry.¹²⁰ The PREPARE Act requires the Commission to publish its initial findings and recommendations no later than 120 days after enactment of the Act and issue a report on final recommendations no later than one year after enactment.¹²¹

IV. JUST SAY YES TO LEGALIZATION

With a growing number of states legalizing adult recreational use of marijuana,¹²² the majority of the United States population continues to heavily favor legalization of both medical and recreational marijuana use.¹²³ According to a 2022 Pew Research Center survey, 88% of United States adults believe marijuana should be legal, with 30% saying it should be legal for medical use only and 59% saying marijuana should be legal for both medical and recreational use.¹²⁴ A mere 10% of those surveyed thought marijuana should remain illegal.¹²⁵ A similar survey conducted by Gallup, which did not specify whether marijuana should be legalized for purely medical or recreational use, indicated 68% of United States adults favor legalizing marijuana.¹²⁶ An aggregate analysis of data from 2018 to 2022 indicates support for legalization by United States adults averaged 67% over the past five years.¹²⁷

119. *Id.*

120. *Id.* at 2.

121. Preparing Regulators Effectively for a Post-Prohibition Adult-Use Regulated Environment Act of 2022, S. 5166, 117th Cong. § 4(b)(3), (5) (2022).

122. *See generally* Hansen et al., *supra* note 20.

123. Ted Van Green, *Americans Overwhelmingly Say Marijuana Should Be Legal for Medical and Recreational Use*, PEW RSCH. CTR. (Nov. 22, 2022), <https://www.pewresearch.org/fact-tank/2022/11/22/americans-overwhelmingly-say-marijuana-should-be-legal-for-medical-or-recreational-use/> [<https://perma.cc/GCB3-QFQX>].

124. *Id.*

125. *Id.*

126. Jeffrey M. Jones, *Marijuana Views Linked to Ideology, Religiosity, Age*, GALLUP (Nov. 15, 2022), <https://news.gallup.com/poll/405086/marijuana-views-linked-ideology-religiosity-age.aspx> [<https://perma.cc/593S-9QTW>].

127. *Id.*

To date, one United States territory, the District of Columbia, and 23 states have legalized the recreational use of marijuana for adults.¹²⁸ Medical use of marijuana has been legalized in 40 states and the District of Columbia.¹²⁹ An additional consideration for federal legalization of marijuana is the impact of legalization on the criminal justice system. Marijuana has been labeled a gateway drug; however, some believe this is only true in the sense that “marijuana has become a gateway to the criminal justice system.”¹³⁰

A. Legalization and the Criminal Justice System

1. National Landscape

According to data by the United States Federal Bureau of Investigation (FBI), the number of individuals arrested in the United States for violating marijuana laws sharply declined in 2020.¹³¹ In that year alone, “police made an estimated 350,150 arrests for marijuana-related violations.”¹³² Of those arrests, 317,793, or nearly 91%, were for possession of marijuana only.¹³³ However, 2020 “was the first year that marijuana possession was not the most common cause for a drug arrest.”¹³⁴ Out of an estimated 1.16 million drug arrests nationwide in 2020, 27.5% were for possession of marijuana.¹³⁵ The arrest rate in 2020 was a 36% decrease from 2019 when estimated marijuana-related arrests totaled 545,602.¹³⁶ The FBI has not reported so few marijuana-related arrests in a single year since the early 1990s.¹³⁷ According to reports from the FBI, marijuana-related offenses were less likely to occur in western states.¹³⁸ This is likely because most western states

128. See Hansen et al., *supra* note 20.

129. *Where Marijuana is Legal in the United States*, MJBIZDAILY (Nov. 7, 2023), <https://mjbizdaily.com/map-of-us-marijuana-legalization-by-state/> [<https://perma.cc/8NUF-743R>].

130. Akua Amaning, *The Facts on Marijuana Equity and Decriminalization*, CTR. FOR AM. PROGRESS ACTION FUND (April 20, 2021), <https://www.americanprogress.org/article/facts-marijuana-equity-decriminalization/> [<https://perma.cc/4ZJ4-TRKT>].

131. *Marijuana Arrests Fall Precipitously Nationwide in 2020*, NORML (Sept. 27, 2021), <https://norml.org/blog/2021/09/27/marijuana-arrests-fall-precipitously-nationwide-in-2020/> [<https://perma.cc/L6LA-YH9R>].

132. *Id.*

133. *Id.*

134. Harris, *supra* note 103.

135. *Id.*

136. *Marijuana Arrests Fall Precipitously Nationwide in 2020*, *supra* note 131.

137. *Id.*

138. *Id.*

have legalized recreational use of marijuana, with Colorado and Washington first legalizing recreational use in 2012 and New Mexico being the most recent western state to legalize in 2021.¹³⁹ Marijuana-related offenses were most prevalent in northeastern states.¹⁴⁰ In this region marijuana-related offenses comprised 50% of all drug arrests.¹⁴¹ However, this has likely changed as New York, Connecticut, Rhode Island, Vermont, New Jersey, and Maryland have all legalized recreational use of marijuana since the FBI report was released in 2020.¹⁴²

There are certain limitations on national marijuana-related arrest data. First, 2020 marked the height of the COVID-19 pandemic. Measures taken to limit the spread of COVID-19 resulted in fewer interactions between citizens and the police.¹⁴³ In fact, “[t]he number of arrests for all drugs fell by 25%” from 2019 to 2020.¹⁴⁴ Crime statistics published by the FBI are also limited.¹⁴⁵ “[T]he FBI [publishes] crime statistics reported by local law enforcement agencies using the Summary Reporting System” (SRS).¹⁴⁶ SRS data only counts “the most serious offense even when [the underlying] arrest involves more than one charge.”¹⁴⁷ The FBI created the National Incident Based Reporting System (NIBRS) in the 1980s to more easily collect data.¹⁴⁸ Despite NIBRS collecting much more detailed data, the transition to the new system has been slow.¹⁴⁹ Beginning January 1, 2021, the FBI began reporting NIBRS-collected data.¹⁵⁰ A mere 52% of law enforcement agencies fully reported NIBRS data in 2021.¹⁵¹ In fact, “[t]wo of the nation’s largest police departments, New York City and Los Angeles, did not report” any statistics whatsoever.¹⁵²

Although national arrest data paints an incomplete picture, it is evident national marijuana-related arrests are trending downward to some extent. On the whole, national marijuana-related arrests have decreased more than 50% from their

139. *Where Marijuana is Legal in the United States*, *supra* note 129.

140. *Marijuana Arrests Fall Precipitously Nationwide in 2020*, *supra* note 131.

141. *Id.*

142. *Id.*; *Where Marijuana is Legal in the United States*, *supra* note 129.

143. Harris, *supra* note 103.

144. *Id.*

145. *See id.*

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.*

151. *Id.*

152. *Id.*

height in 2008, when marijuana-related arrests totaled over 800,000.¹⁵³ As more states legalize recreational and medical marijuana use, this downward trend is likely to continue.¹⁵⁴

2. *State Landscape*

Unsurprisingly, marijuana-related arrest rates vary significantly among the states.¹⁵⁵ In 2018, the national marijuana arrest rate was 203.88 per 100,000 people.¹⁵⁶ For the same year, in South Dakota, the state marijuana arrest rate was 707.34 arrests per 100,000 people.¹⁵⁷ Meanwhile, in Massachusetts state arrests were a mere 4.52 arrests per 100,000 people.¹⁵⁸ Despite a decrease in marijuana-related arrest rates at the national level, 17 states experienced increased arrest rates from 2010 to 2018.¹⁵⁹ Texas in particular had 70,017 arrests in 2018, which was the highest total number of marijuana possession arrests.¹⁶⁰ Half of all drug arrests in 12 states in 2018 can be attributed to marijuana.¹⁶¹

The lowest arrest rates for marijuana possession in 2018 were in legalized states.¹⁶² Interestingly, in some states, the decrease in arrests began before legalization.¹⁶³ For instance, arrests rates in California and Massachusetts decreased several years before legalization, likely due to increased decriminalization.¹⁶⁴ Arrests for marijuana sales also decreased more significantly in legalized states than non-legalized states.¹⁶⁵ From 2010 to 2018 the arrest rate for sales in legalized states decreased 82.7%.¹⁶⁶ During the same period, arrest rates

153. *Marijuana Arrests Fall Precipitously Nationwide in 2020*, *supra* note 131.

154. *See* Harris, *supra* note 103.

155. EZEKIEL EDWARDS ET AL., AM. CIVIL LIBERTIES UNION, A TALE OF TWO COUNTRIES: RACIALLY TARGETED ARRESTS IN THE ERA OF MARIJUANA REFORM 23 (2020), https://www.aclu.org/sites/default/files/field_document/marijuanareport_03232021.pdf [<https://perma.cc/6Y9Z-J5WZ>].

156. *Id.* at 21.

157. *Id.* at 23.

158. *Id.* at 32.

159. *Id.* at 23.

160. *Id.* at 22.

161. *Id.*

162. *Id.* at 24.

163. *Id.*

164. *Id.* at 25.

165. *Id.*

166. *Id.*

for sales “decreased by 35.1% in states that had decriminalized,” while states where marijuana remained illegal only saw a decrease of 13.2%.¹⁶⁷

Decriminalization is “associated with a reduction in the rate of marijuana arrests,” but to a lesser extent than legalization.¹⁶⁸ Arrests for possession in states that decriminalized marijuana fell dramatically between 2010 and 2018.¹⁶⁹ However, arrests for possession remained “eight times higher in decriminalized states than in legalized states.”¹⁷⁰ Significant variability in arrest rates exists between states that have decriminalized marijuana.¹⁷¹ Maryland and Rhode Island experienced sharp declines in arrests for marijuana possession post-decriminalization.¹⁷² However, Connecticut, Delaware, Illinois, New Hampshire, and Vermont saw arrests for possession decrease before decriminalization.¹⁷³ Between 2010 and 2018, arrests for marijuana sales dropped by 35.1% in decriminalized states, much less than in legalized states during the same period.¹⁷⁴ In general, considering both possession and sales offenses, states that have legalized marijuana have seen larger decreases in marijuana arrest rates than states which merely decriminalized marijuana.¹⁷⁵

3. Impact of Legalization in Colorado

In 2012, “Colorado and Washington became the first states to legalize the possession and sale of marijuana for recreational use.”¹⁷⁶ Colorado’s Amendment 64 permits individuals age 21 and older to grow three mature and three immature plants (six total) and to keep the marijuana produced therefrom.¹⁷⁷ Further, an individual is allowed to possess up to one ounce of marijuana at a time and “give

167. *Id.*

168. *Id.* at 26.

169. *See id.* at 8.

170. *Id.*

171. *Id.* at 26.

172. *Id.*

173. *Id.*

174. *Id.*

175. *Id.*

176. Keith Coffman & Nicole Neroulis, *Colorado, Washington First States to Legalize Recreational Pot*, REUTERS (Nov. 6, 2012, 6:53 PM), <https://www.reuters.com/article/us-usa-marijuana-legalization/colorado-washington-first-states-to-legalize-recreational-pot-idUSBRE8A602D20121107> [<https://perma.cc/E5LS-46G4>].

177. JACK K. REED, COLO. DEP’T OF PUB. SAFETY OFF. OF RSCH. & STAT., IMPACTS OF MARIJUANA LEGALIZATION IN COLORADO 14 (2021), https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283_Rpt.pdf [<https://perma.cc/GB49-2Q5Z>].

away without remuneration up to one ounce of marijuana to someone 21 years or older.”¹⁷⁸ Amendment 64 “also instructed Colorado’s Marijuana Enforcement Division [(MED)] to create rules, regulations, and licenses to allow for the first recreational marijuana marketplace.”¹⁷⁹ The regulations MED created regarding licensing, ownership, labeling, production control, health and safety, and advertising eventually resulted in Colorado’s Retail Marijuana Code.¹⁸⁰

In the decade since Amendment 64 took effect, Colorado has seen significant decreases in marijuana-related offenses, arrests, and court filings.¹⁸¹ Between 2012 and 2019, marijuana-related arrests dropped from 13,225 to 4,290, a 68% decrease.¹⁸² Similar to national trends, arrests for possession make up a majority of all marijuana-related arrests in Colorado.¹⁸³ Arrests for possession dropped by 71% between 2012 and 2019.¹⁸⁴ During the same period, arrests for marijuana sales decreased by 56%.¹⁸⁵ Interestingly, arrests for marijuana production increased by 3%, possibly due to limitations on the number of plants an individual may legally grow.¹⁸⁶

Marijuana-related case filings in Colorado courts also decreased by “55% between 2012 and 2019.”¹⁸⁷ Petty distribution cases “decreased from 84% of cases in 2012 to 54% of cases in 2019.”¹⁸⁸ “Between 2012 and 2019, total possession filings dropped by 63%,” distribution filings decreased by 55%, manufacturing filings increased 14%, and conspiracy filings decreased 35%.¹⁸⁹ Since legalization, misdemeanor possession filings have gradually decreased.¹⁹⁰ Felony and petty possession filings initially dropped after legalization, then increased, and began to decrease again in 2019.¹⁹¹ Over half of petty, misdemeanor, and felony marijuana offenses are dismissed.¹⁹² In 2014, the traffic offense of possessing an open

178. *Id.*

179. *Id.*

180. *Id.*

181. *Id.* at 1.

182. *Id.* at 20.

183. *Id.*

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.* at 27.

188. *Id.* at 28.

189. *Id.* at 29.

190. *Id.*

191. *Id.*

192. *Id.*

container of marijuana was implemented, and traffic cases now account for 22% of marijuana-related cases in the state.¹⁹³

Legalization in Colorado has impacted more than just the criminal justice system.¹⁹⁴ Retail sales of marijuana products “increased 155%, from \$683 million in 2014 to \$1.75 billion in 2020.”¹⁹⁵ On average in 2020, \$145 million in marijuana products were sold in Colorado per month.¹⁹⁶ Sales of medical marijuana products accounted for \$422 million in sales in 2020.¹⁹⁷

4. Impact of Legalization in Washington

Like Colorado, adult recreational use of marijuana has been legal in Washington for nearly a decade.¹⁹⁸ Washington Initiative 502 effectively “legalized the sale, purchase, and use of marijuana for people aged 21 and over.”¹⁹⁹ Under the initiative, individuals may purchase “up to one ounce of ‘useable’ marijuana; up to 16 ounces of marijuana-infused edibles in a solid form; 72 ounces in liquid form; and seven grams of marijuana concentrates.”²⁰⁰ Useable marijuana is the harvested flower or “bud” of the plant.²⁰¹ Only state-licensed retail stores may sell marijuana.²⁰² It is a felony in Washington for anyone besides “a licensed retailer to sell or provide marijuana to [others].”²⁰³ Likewise, providing marijuana to a minor is subject to substantial fines and up to ten years imprisonment.²⁰⁴ Marijuana may not be consumed or used in public.²⁰⁵ Further, for safety concerns, it remains illegal to drive while under the influence of marijuana.²⁰⁶ Similar to

193. *Id.*

194. *See id.* at 15.

195. *Id.* at 137.

196. *Id.*

197. *Id.*

198. *See Coffman & Neroulis, supra* note 176.

199. LEAH LANDON ET AL., WASH. STATE STAT. ANALYSIS CTR., MONITORING IMPACTS OF RECREATIONAL MARIJUANA LEGALIZATION: 2019 UPDATE REPORT 3 (2019), https://ofm.wa.gov/sites/default/files/public/publications/marijuana_impacts_update_2019.pdf [<https://perma.cc/44TR-FUCX>].

200. *Id.*

201. WASH. STATE LIQUOR CONTROL BD., MARIJUANA USE IN WASHINGTON STATE, AN ADULT CONSUMER’S GUIDE (2015), <https://www.dshs.wa.gov/sites/default/files/AL TSA/stakeholders/documents/duals/toolkit/Consumer%27s%20Guide%20to%20Marijuana.pdf> [<https://perma.cc/P9RV-XYZ4>].

202. LANDON ET AL., *supra* note 199, at 3.

203. WASH. STATE LIQUOR CONTROL BD., *supra* note 201.

204. *Id.*

205. *Id.*

206. *Id.*

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blood-alcohol limit, it is illegal for individuals to drive with five or more nanograms of active THC per milliliter of blood (5ng/ml) in Washington.²⁰⁷

“The number of incidents involving marijuana decreased by 63 percent from 2012 to 2015” in Washington state.²⁰⁸ An “incident” is defined as “any law enforcement officer investigat[ing] a scene or situation, [even if] that investigation [does not] result in an arrest.”²⁰⁹ This trend continued through 2018, with incidents involving marijuana decreasing while incidents involving other substances, like heroin and amphetamines, increased.²¹⁰ “[C]onvictions for the manufacturing, delivery or possession with intent to deliver marijuana . . . have remained relatively stable” following a record low in 2014.²¹¹ Since 2015, the number of incidents involving marijuana have remained relatively stable, with 300 less incidents in 2018 than in 2017.²¹²

“Washington state collected . . . \$515.2 million in legal marijuana income and licens[ing] fees in fiscal year 2022” alone,²¹³ an astonishing \$47 million more than the previous fiscal year.²¹⁴ Marijuana revenues in 2022 were \$251.2 million more than the income from liquor in the same year.²¹⁵

V. CONCLUSION

Legislative enactments and consistently high public support for legalization of marijuana indicate federal descheduling and legalization of marijuana is likely to occur in the near future. The 2018 Farm Bill and state legislation, like the Iowa Hemp Act, have laid a solid regulatory framework for federal legalization of hemp to transition to federal legalization of marijuana. Removing hemp from controlled substance status, permitting its cultivation, and authorizing production has allowed legislators to examine and address regulatory weaknesses before federal legalization of marijuana occurs.²¹⁶

207. *Id.*

208. LONDON ET AL., *supra* note 199, at 15.

209. *Id.*

210. *Id.*

211. *Id.* at 17.

212. *Id.* at 15.

213. *Washington Marijuana Revenues, and Health*, WASH. STATE TREASURER (Sept. 18, 2023, 1:27 PM), <https://www.tre.wa.gov/portfolio-item/washington-state-marijuana-revenues-and-health/> [<https://perma.cc/6VUQ-QVXH>].

214. *Id.*

215. *Id.*

216. *See McClure, supra* note 2.

While hemp may be the gateway to federal legalization, legislators should take note of the benefits federal legalization of marijuana would have on the economy and on the criminal justice system. Nationally, marijuana-related arrests still account for more arrests than any other drug.²¹⁷ However, states that have legalized or decriminalized marijuana have seen significant decreases in marijuana-related arrest rates.²¹⁸ Federal legalization is the only way to tell whether the *grass* truly is greener on the other side.

217. EDWARDS ET AL., *supra* note 155, at 5.

218. *Id.*