H. R. 499

To decriminalize marijuana at the Federal level, to leave to the States a power to regulate marijuana that is similar to the power they have to regulate alcohol, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2013

Mr. POLIS (for himself, Mr. BLUMENAUER, Mr. COHEN, Ms. LEE of California, Ms. SCHAKOWSKY, Mr. NADLER, Mr. HUFFMAN, Mr. HONDA, Mr. MORAN, and Ms. NORTON) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Ways and Means, Natural Resources, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To decriminalize marijuana at the Federal level, to leave to the States a power to regulate marijuana that is similar to the power they have to regulate alcohol, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE.

This Act may be cited as the “Ending Federal Mari-
5 juana Prohibition Act of 2013”.
TITLE I—AMENDMENTS TO DE-CRIMINALIZE MARIJUANA AT THE FEDERAL LEVEL

SEC. 101. DECRIMINALIZATION OF MARIJUANA.

(a) Removal From Schedule of Controlled Substances.—Notwithstanding any other provision of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Attorney General shall, not later than 60 days after the date of the enactment of this Act, issue a final order that removes marijuana in any form from all schedules under section 202(c) of that Act (21 U.S.C. 812(c)).

(b) Conforming Amendment To Remove Legislative Deadwood.—Subsection (c) of section 202 of the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

“(c) Cross Reference to Schedules of Controlled Substances.—Schedules I, II, III, IV, and V shall consist of the drugs and other substances (by whatever official name, common or usual name, chemical name, or brand name designated) that are set forth in the respective schedules in part 1308 of title 21, Code of Federal Regulations, as they may be amended from time to time, or in any successor regulation.”.
SEC. 102. APPLICATION OF THE CONTROLLED SUBSTANCES ACT AND CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT TO MARIJUANA.

Part A of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following:

"SEC. 103. APPLICATION TO MARIHUANA.

(a) General Nonapplication.—Except as provided in this section, this title and title III do not apply to marihuana.

(b) Exception: Prohibition on Certain Transportations and Shipments.—It shall be unlawful to ship or transport marihuana from any place outside a State, territory, or district of the United States, or other place noncontiguous to but subject to the jurisdiction of the United States, into that State, territory, or district of the United States, or place, when such marihuana is intended by any person interested therein to be received, possessed, sold, or in any manner used, in violation of any law of such State, territory, district, or place.

(c) Penalty.—Whoever knowingly violates subsection (b) shall be fined under title 18, United States Code, or imprisoned not more than one year, or both."

SEC. 103. CONFORMING AND ANCILLARY AMENDMENTS.

(a) Modification of Definition of "FELONY DRUG OFFENSE".—Section 102(44) of the Controlled
Substances Act (21 U.S.C. 802(44)) is amended by striking “marihuana,”.

(b) Elimination of Marijuana Penalty Provisions.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended—

(1) in section 401—

(A) by striking subsection (b)(1)(A)(vii);

(B) by striking subsection (b)(1)(B)(vii);

(C) by striking subsection (b)(1)(D); and

(D) by striking subsection (b)(4);

(2) in section 402(c)(2)(B), by striking “marihuana,”;

(3) in section 403(d)(1), by striking “marihuana,”;

(4) in section 418(a), by striking the last sentence;

(5) in section 419(a), by striking the last sentence;

(6) in section 422(d), in the matter preceding paragraph (1), by striking “marijuana,”; and

(7) in section 422(d)(5), by striking “, such as a marihuana cigarette,.”.

(e) Removal of Prohibition on Import and Export.—Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended—
(1) by striking subparagraph (G) of subsection (b)(1);
(2) by striking subparagraph (G) of subsection (b)(2); and
(3) by striking paragraph (4) of subsection (b).

(d) **LIMITING THE APPLICATION OF THE NATIONAL FOREST SYSTEM DRUG CONTROL ACT OF 1986 TO CONTROLLED SUBSTANCES OTHER THAN MARIJUANA.**—The National Forest System Drug Control Act of 1986 is amended—

(1) in section 15002(a) (16 U.S.C. 559b(a)) by striking “marijuana and other”;
(2) in section 15003(2) (16 U.S.C. 559c(2)) by striking “marijuana and other”; and
(3) in section 15004(2) (16 U.S.C. 559d(2)) by striking “marijuana and other”.

(e) **INTERCEPTION OF COMMUNICATIONS.**—Section 2516 of title 18, United States Code, is amended—

(1) in subsection (1)(e), by striking “marijuana,”; and
(2) in subsection (2) by striking “marihuana,”.

is amended by striking subsection (j) (relating to prevention of marijuana use).

**TITLE II—FEDERAL MARIJUANA LICENSING AND RELATED MATTERS**

**SEC. 201. FEDERAL MARIJUANA ADMINISTRATION.**

The Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) is amended by adding at the end the following:

“**TITLE III—MARIJUANA**

“**SEC. 301. UNLAWFUL BUSINESSES WITHOUT MARIJUANA PERMIT.**

“(a) IMPORT.—It shall be unlawful, except pursuant to a permit issued under this title by the Secretary of the Treasury (hereinafter in this title referred to as ‘the Secretary’)—

“(1) to engage in the business of importing marijuana into the United States; or

“(2) for any person so engaged to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, marijuana so imported.

“(b) MANUFACTURE AND SALE.—It shall be unlawful, except pursuant to a permit issued under this title by the Secretary—
“(1) to engage in the business of cultivating, producing, manufacturing, packaging, or warehousing marijuana; or

“(2) for any person so engaged to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, marijuana so cultivated, produced, manufactured, packaged, or warehoused.

“(c) Resale.—It shall be unlawful, except pursuant to a permit issued under this title by the Secretary—

“(1) to engage in the business of purchasing marijuana for resale at wholesale; or

“(2) for any person so engaged to receive or to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, marijuana so purchased.

“(d) Remedies for Violations.—

“(1) Criminal fine.—

“(A) Generally.—Whoever violates this section shall be fined not more than $1000.

“(B) Settlement in compromise.—The Secretary may decide not to refer a violation of this section to the Attorney General for prosecution but instead to collect a payment from

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the violator of no more than $500 for that vi-
lation.

“(2) CIVIL ACTION FOR RELIEF.—The Attorney
General may, in a civil action, obtain appropriate re-
lief to prevent and restrain a violation of this title.

“SEC. 302. PROCEDURE FOR ISSUANCE OF MARIJUANA
PERMITS.

“(a) WHO ENTITLED TO PERMIT.—

“(1) GENERALLY.—The Secretary shall issue a
permit for operations requiring a permit under sec-
tion 301 unless the Secretary finds that—

“(A) the applicant (or if the applicant is a
corporation, any of its officers, directors, or
principal stockholders) has been convicted of a
disqualifying offense;

“(B) the applicant is, by reason of busi-
ness experience, financial standing, or trade
connections, not likely to commence operations
within a reasonable period or to maintain such
operations in conformity with Federal law; or

“(C) the operations proposed to be con-
ducted by the applicant are in violation of the
law of the State in which they are to be con-
ducted.
“(2) DISQUALIFYING OFFENSES.—For the purposes of paragraph (1):

“(A) GENERALLY.—Except as provided in subparagraph (B) a disqualifying offense is an

offense related to the production, consumption,
or sale of marijuana that is—

“(i) a felony under Federal or State

law, if the conviction occurred not later
than 5 years before the date of the applica-
tion; or

“(ii) a misdemeanor under Federal

law, if the conviction occurred not later
than 3 years before the date of the applica-
tion.

“(B) EXCLUDED OFFENSES.—A disquali-

fying offense does not include a Federal or
State offense based on conduct that—

“(i) was legal under State law in the

State when and where the conduct took
place, or

“(ii) is, as of the date of the applica-
tion, no longer an offense in that State.

“(b) REFUSAL OF PERMIT; HEARING.—If upon ex-
amination of any application for a permit the Secretary
has reason to believe that the applicant is not entitled to
such permit, the Secretary shall so notify the applicant
and, upon request by the applicant, afford the applicant
due notice and opportunity for hearing on the application.
If the Secretary, after affording such notice and oppor-
tunity for hearing, still finds that the applicant is not enti-
tled to a permit hereunder, the Secretary shall by order
deny the application stating the findings which are the
basis for the order.

“(c) Form of Application.—

“(1) Generally.—The Secretary shall—

“(A) prescribe the manner and form of ap-
lications for permits under this title (including
the facts to be set forth in the application);
“(B) prescribe the form of such permits;
“(C) specify in any permit the authority
conferred by the permit and the conditions of
that permit in accordance with this title.

“(2) Separate types of applications and
permits.—To the extent deemed necessary by the
Secretary for the efficient administration of this
title, the Secretary may require separate applications
and permits with respect to the various classes of
marijuana, and with respect to the various classes of
persons entitled to permits under this title.
“(3) DISCLAIMER.—The issuance of a permit under this title does not deprive the United States of any remedy for a violation of law.

“(d) CONDITIONS.—A permit under this title shall be conditioned upon—

“(1) compliance with all other Federal laws relating to production, sale and consumption of marijuana, as well as compliance with all State laws relating to said activities in the State in which the permit applicant resides and does business; and

“(2) payment to the Secretary of a reasonable permit fee in an amount determined by the Secretary to be sufficient over time to offset the cost of implementing and overseeing all aspects of marijuana regulation by the Federal Government.

“(e) REVOCATION, SUSPENSION, AND ANNULMENT.—

“(1) GENERALLY.—After due notice and opportunity for hearing, the Secretary may order a permit under this title—

“(A) revoked or suspended for such period as the Secretary deems appropriate, if the Secretary finds that the permittee has willfully violated any of the conditions of the permit, but
for a first violation of the conditions the permit shall be subject to suspension only;

“(B) revoked if the Secretary finds that the permittee has not engaged in the operations authorized by the permit for a period of more than two years; or

“(C) annulled if the Secretary finds that the permit was procured through fraud, or misrepresentation, or concealment of material fact.

“(2) ORDER TO STATE BASIS FOR ORDER.— The order shall state the findings which are the basis for the order.

“(f) SERVICE OF ORDERS.—Each order of the Secretary with respect to any denial of application, suspension, revocation, annulment, or other proceedings, shall be served—

“(1) in person by any officer or employee of the Secretary designated by him or any internal revenue or customs officer authorized by the Secretary for the purpose; or

“(2) by mailing the order by registered mail, addressed to the applicant or respondent at his last known address in the records of the Secretary.

“(g) DURATION.—
“(1) General Rule.—Except as otherwise provided in this subsection, a permit issued under this title shall continue in effect until suspended, revoked, or annulled as provided in this title, or voluntarily surrendered.

“(2) Effect of Transfer.—If operations under a permit issued under this title are transferred, the permit automatically terminates 30 days after the date of that transfer, unless an application is made by the transferee before the end of that period for a permit under this title for those operations. If such an application is made, the outstanding permit shall continue in effect until such application is finally acted on by the Secretary.

“(3) Definition of Transfer.—For the purposes of this section, the term ‘transfer’ means any change of ownership or control, whether voluntary or by operation of law.

“(h) Judicial Review.—A permittee or applicant for a permit under this title may obtain judicial review under chapter 7 of title 5 chapter, United States Code, of the denial of the application of that applicant or, in the case of a permittee, the denial of an application by the transferee of that permittee.
“(i) Statute of Limitations.—No proceeding for
the suspension or revocation of a permit for violation of
any condition thereof relating to compliance with Federal
law shall be instituted by the Secretary more than 18
months after conviction of the violation of Federal law,
or, if no conviction has been had, more than 3 years after
the violation occurred; and no permit shall be suspended
or revoked for a violation of any such condition thereof
if the alleged violation of Federal law has been com-
promised by any officer of the Government authorized to
compromise such violation.

“SEC. 303. DEFINITIONS.

“In this title—

“(1) the term ‘marijuana’ has the meaning
given the term ‘marihuana’ in section 102 of the
Controlled Substances Act (21 U.S.C. 802); and

“(2) the term ‘State’ includes the District of
Columbia, Puerto Rico, and any territory or posses-
sion of the United States.”.

SEC. 202. ADDITION OF MARIJUANA TO CERTAIN LEGAL AU-
THORITIES RELATING TO INTOXICATING LIQ-
UORS.

(a) Wilson Act.—The Act of August 8, 1890 (com-
monly known as the Wilson Act or the Original Packages
Act; 27 U.S.C. 121) is amended by inserting “or marijuana” after “intoxicating liquors or liquids”.

(b) Webb-Kenyon Act.—The Act of March 1, 1913 (commonly known as the Webb-Kenyon Act; 27 U.S.C. 122) is amended by inserting “, or marijuana” after “intoxicating liquor” both places it appears.

(c) Victims of Trafficking and Violence Protection Act of 2000.—Section 2 of the Victims of Trafficking and Violence Protection Act of 2000 (27 U.S.C. 122a) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(B) by inserting after paragraph (2) the following new paragraph:

“(3) The term ‘marijuana’ has the meaning given the term ‘marihuana’ in section 102 of the Controlled Substances Act (21 U.S.C. 802).”; and

(2) in subsections (b) and (c), by inserting “or marijuana” after “intoxicating liquor” each place it appears.

(d) Federal Alcohol Administration Act.—

Section 3 of the Federal Alcohol Administration Act (27 U.S.C. 203) is amended—
(1) by inserting “marijuana,” before “distilled spirits” each place it appears (except in subsection (b)(1)); and
(2) in paragraph (b)(1) by inserting “manufacturing and distribution of marijuana,” after “the business of,”.

TITLE III—OTHER AMENDMENTS RELATING TO FEDERAL AUTHORITY REGARDING MARIJUANA

SEC. 301. FOOD AND DRUG ADMINISTRATION.
The Food and Drug Administration shall have the same authorities with respect to marijuana as the Administration has with respect to alcohol.

SEC. 302. TRANSFERRING AGENCY FUNCTIONS WITH REGARD TO MARIJUANA.
(a) Transfer of Jurisdiction from Drug Enforcement Administration to Bureau of Alcohol, Tobacco, Firearms and Explosives.—The functions of the Attorney General, acting through the Administrator of the Drug Enforcement Administration relating to marijuana enforcement, shall hereafter be administered by the Attorney General, acting through the Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives.
(b) Redesignation of Bureau of Alcohol, Tobacco, Firearms and Explosives as Bureau of Alcohol, Tobacco, Marijuana, Firearms and Explosives.—

(1) Redesignation.—The Bureau of Alcohol, Tobacco, Firearms and Explosives is hereby renamed the “Bureau of Alcohol, Tobacco, Marijuana, Firearms and Explosives”.

(2) References.—Any reference to the Bureau of Alcohol, Tobacco, Firearms and Explosives in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Bureau of Alcohol, Tobacco, Marijuana, Firearms and Explosives.

c) Redesignation of Alcohol and Tobacco Tax and Trade Bureau as Alcohol, Tobacco, and Marijuana Tax and Trade Bureau.—

(1) Redesignation.—The Alcohol and Tobacco Tax and Trade Bureau is hereby renamed the “Alcohol, Tobacco, and Marijuana Tax and Trade Bureau”.

(2) References.—Any reference to the Alcohol and Tobacco Tax and Trade Bureau in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference
to the Alcohol, Tobacco, and Marijuana Tax and Trade Bureau.

SEC. 303. COMPTROLLER GENERAL REVIEW OF LAWS AND REGULATIONS.

The Comptroller General shall conduct a review of Federal laws, regulations, and policies to determine if any changes in them are desirable in the light of the purposes and provisions of this Act. Not later than 2 years after the date of the enactment of this Act the Comptroller General shall make to Congress and the relevant agencies such recommendations relating to the results of that review as the Comptroller General deems appropriate.

SEC. 304. CONSTRUCTION.

Neither this Act nor any amendment made by this Act shall be construed to affect Federal drug testing policies.