H. R. 6673

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marijuana, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2023

Mr. JOYCE of Ohio (for himself, Mrs. CHAVEZ-DeREMEN, Mr. MAST, Mr. BLUMENAUER, and Mr. CARTER of Louisiana) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, and Transportation and Infrastructure, 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 amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marijuana, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Strengthening the Tenth Amendment Through Entrusting States 2.0 Act” or the “STATES 2.0 Act”.

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SEC. 2. FINDINGS.

The Congress finds the following:

(1) States have vastly different visions for the role of legal cannabis in their cities and counties. Some wish to see a complete prohibition, while others believe cannabis should be treated like alcohol. States should be empowered to determine their own destiny for the cannabis markets. They should be able to enact time, place, and manner restrictions that help to aid small and craft businesses, impose regulations for health and safety, keep cannabis businesses away from schools, and generally fit with the character and values of the community.

(2) While States have the power to determine what happens within their own borders, they cannot make laws permitting or restricting interstate commerce unilaterally. In the absence of Federal movement, the illicit interstate trade in cannabis has persisted even in the face of significant State policy changes. The Federal Government should be responsible for regulating and tracking this interstate trade to ensure cannabis does not end up where it does not belong.

(3) Today’s illicit marijuana market represents 75 percent of the known marijuana market.
(4) Excessive taxation in licensed markets has caused the price of legal marijuana products to exceed that of illegal products by two to three times, contributing to the growth of the illicit market.

(5) Because of Federal restrictions on marijuana activities, marijuana is currently regulated by a punitive tax structure that harms the ability of licensed operators to sell marijuana products, discourages new business creation and growth, and perpetuates illicit markets.

(6) A Federal regulatory program for marijuana should require a framework that supports critical components such as proper administration and oversight, consumer safety protections, and enforcement.

(7) The cost of such a program should fall on users of the program through the establishment of a Federal excise tax. Such a Federal marijuana tax should—

(A) support a legal market, not illegal sales and illicit activity;

(B) be low enough to not exacerbate the level of taxation set by States, thereby avoiding the pyramid effect of adding Federal taxes on top of high State taxes;
(C) be administrable and allow for consistent and timely collection by the Alcohol and Tobacco Tax and Trade Bureau as primary regulator; and

(D) offset the costs of executing the administrative functions of a Federal regulatory framework for marijuana, including requirements for testing, enforcement and policing, youth prevention, and substance abuse prevention and education.

(8) States that legalize cannabis utilize less public safety resources on cannabis arrests. This has allowed more police resources to be devoted to violent and property crime as well as more serious types of illicit substances.

SEC. 3. SENSE OF CONGRESS REGARDING FDA SUPPORT FOR TRIBAL SELF-DETERMINATION AND SELF-GOVERNMENT WITH RESPECT TO MARIJUANA REGULATION.

It is the sense of Congress that, with respect to the regulation of the manufacture, production, possession, distribution, dispensation, administration, or delivery of marijuana, the Food and Drug Administration should support—
(1) self-determination and self-government by
Indian tribes (as defined in section 102 of the Fed-
erally Recognized Indian Tribe List Act of 1994 (25
U.S.C. 5130)); and

(2) the treaty rights of such Indian tribes.

SEC. 4. RULE REGARDING APPLICATION TO MARIJUANA.

Part G of the Controlled Substances Act (21 U.S.C.
801 et seq.) is amended by adding at the end the fol-
lowing:

``RULE REGARDING APPLICATION TO MARIJUANA

``Sec. 710. (a) States.—Notwithstanding any other
provision of law, the provisions of this Act as applied to
marijuana, except the provisions described in subsection
(d) and except as provided in subsection (e), shall not
apply to any marijuana manufactured, produced, pos-
sessed, distributed, dispensed, administered, or delivered
in compliance with State law relating to the manufacture,
production, possession, distribution, dispensation, admin-
istration, or delivery of marijuana.

``(b) Indian Tribes.—Notwithstanding any other
provision of law, the provisions of this Act related to mari-
juana, except the provisions described in subsection (d)
and except as provided in subsection (e), shall not apply
to marijuana manufactured, produced, possessed, distrib-
uted, dispensed, administered, or delivered in compliance
with the law of a federally recognized Indian Tribe relat-
ing to the manufacture, production, possession, distribu-
tion, dispensation, administration, or delivery of mari-
juana within its jurisdiction in Indian country, as defined 
in section 1151 of title 18, United States Code, so long 
as such jurisdiction is located within a State that permits, 
as applicable, the manufacture, production, possession, 
distribution, dispensation, administration, or delivery of 
marijuana.

“(e) Interstate Transportation.—

“(1) State law.—

“(A) In general.—No State or Indian 
Tribe may prohibit the transportation or ship-
ment of marijuana through the State or the ter-
ritory of the Indian Tribe, as applicable, if the 
originating and destination States or territories 
permit, as applicable, the manufacture, produc-
tion, possession, distribution, dispensation, ad-
ministration, or delivery of marijuana.

“(B) Rule of construction.—Subpara-
graph (A) shall not be construed to limit the 
authority of an originating or destination State 
or territory to impose reasonable restrictions 
within its jurisdiction on the manufacture, pro-
duction, possession, distribution dispensation, 
administration, or delivery of marijuana—
“(i) through time, place, and manner restrictions; or
“(ii) to protect public health and safety.

“(2) FEDERAL LAW.—Notwithstanding any other provision of law, the provisions of this title as applied to marijuana, except the provisions described in subsection (d) and except as provided in subsection (e), shall not apply to any person engaged in marijuana transportation or shipment between two States which States permit, as applicable, the manufacture, production, possession, distribution, dispensation, administration, or delivery of marijuana.

“(d) PROVISIONS DESCRIBED.—The provisions described in this subsection are—

“(1) section 401(a)(1), with respect to a violation of section 409 or 418;
“(2) section 409;
“(3) section 417; and
“(4) section 418.

“(e) EXCEPTION.—Subsections (a) through (e) shall not apply to any person who—

“(1) violates this title with respect to any controlled substance other than marijuana;
“(2) knowingly or intentionally manufactures, produces, possesses, distributes, dispenses, administers, or delivers any marijuana in violation of the laws of the State or Indian Tribe in which such manufacture, production, possession, distribution, dispensation, administration, or delivery occurs; or

“(3) employs or hires any person under 18 years of age to manufacture, produce, distribute, dispense, administer, or deliver marijuana.

“(f) Removal From Schedule.—

“(1) In general.—For the purposes of this title, marijuana manufactured, produced, possessed, distributed, dispensed, administered, or delivered in compliance with State law or the law of a federally recognized Indian Tribe relating to the manufacture, production, possession, distribution, dispensation, administration, or delivery of marijuana shall be deemed to be a substance that does not meet the requirements for inclusion in any schedule.

“(2) Rules.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall finalize a rule under section 201(a)(2) executing paragraph (1) of this subsection.

“(g) Definition.—In this section, the term ‘Indian Tribe’ has the meaning given to the term ‘Indian tribe’
in section 102 of the Federally Recognized Indian Tribe

SEC. 5. TRANSPORTATION SAFETY OFFENSES.

Section 409 of the Controlled Substances Act (21
U.S.C. 849) is amended—

(1) in subsection (b), in the matter preceding
paragraph (1)—

(A) by striking “A person” and inserting
“Except as provided in subsection (d), a per-
son”; and

(B) by striking “subsection (b)” and in-
serting “subsection (c)”;

(2) in subsection (c), in the matter preceding
paragraph (1)—

(A) by striking “A person” and inserting
“Except as provided in subsection (d), a per-
son”; and

(B) by striking “subsection (a)” and in-
serting “subsection (b)”;

(3) by adding at the end the following:

“(d) EXCEPTION.—Subsections (b) and (c) shall not
apply to any person who possesses, or possesses with in-
tent to distribute marijuana in compliance with section
710.”.

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SEC. 6. DISTRIBUTION TO PERSONS UNDER AGE 21.

Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), in the first sentence, by inserting “and subsection (c) of this section” after “section 419”;

(2) in subsection (b), in the first sentence, by inserting “and subsection (c) of this section” after “section 419”; and

(3) by adding at the end the following:

“(c) Subsections (a) and (b) shall not apply to any person at least 18 years of age who distributes medicinal marijuana to a person under 21 years of age in compliance with section 710.”.

SEC. 7. REGULATION OF MARIJUANA PRODUCTS BY FOOD AND DRUG ADMINISTRATION.

(a) Definitions.—

(1) Marijuana product defined.—In this section, the term “marijuana product” means any product made or derived from marijuana that is intended for human or animal consumption, including any component of marijuana (except for raw materials other than such marijuana used in manufacturing a component of such product).

(2) Other definitions.—In this section:
(A) The term “biological product” has the meaning given to that term in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)).

(B) The term “marijuana” has the meaning given to that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(C) The terms “cosmetic”, “device”, “dietary supplement”, “drug”, “food”, and “tobacco product” have the meanings given to such terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(b) DRUGS.—A marijuana product meeting the definition of a drug shall be treated as a drug for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) FOOD; DIETARY SUPPLEMENTS.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall have the same authorities under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and other applicable law to regulate a marijuana product that is food or a dietary supplement as the Food and Drug Administration has with respect to food containing alcohol.
(d) COSMETICS.—A marijuana product meeting the definition of a cosmetic shall be treated as a cosmetic for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(e) OTHER PRODUCTS.—

(1) IN GENERAL.—A marijuana product that is not covered by subsection (b), (c), or (d) may be lawfully marketed pursuant to regulations issued under paragraph (2).

(2) REGULATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall promulgate a regulation with respect to marijuana products described in paragraph (1).

(3) CONTENTS.—The regulation under paragraph (2) shall include requirements for—

(A) contaminant testing;

(B) manufacturing practices; and

(C) marketing practices and postmarket reporting, with special attention to preventing consumption by youths.

(4) NO PREMARKET APPROVAL REQUIRED.—

The regulation under paragraph (2) shall not re-
quire premarket approval of marijuana products de-
scribed in paragraph (1).

(f) NO MARKETING IN COMBINATION WITH CERTAIN
OTHER PRODUCTS.—A marijuana product marketed in
combination with a drug, a biological product, a device,
a tobacco product, or an alcohol product is deemed to be
adulterated for purposes of the Federal Food, Drug, and
Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 8. COMPTROLLER GENERAL STUDY ON EFFECTS OF
MARIJUANA LEGALIZATION ON TRAFFIC
SAFETY.

(a) IN GENERAL.—The Comptroller General of the
United States shall conduct a study on the effects of mari-
juana legalization on traffic safety.

(b) INCLUSIONS.—The study conducted under sub-
section (a) shall include a detailed assessment of—

(1) traffic crashes, fatalities, and injuries in
States that have legalized marijuana use, including
whether States are able to accurately evaluate mari-
juana impairment in those incidents;

(2) actions taken by the States referred to in
paragraph (1) to address marijuana-impaired driv-
ing, including any challenges faced in addressing
marijuana-impaired driving;
(3) testing standards used by the States referred to in paragraph (1) to evaluate marijuana impairment in traffic crashes, fatalities, and injuries, including any scientific methods used to determine impairment and analyze data; and

(4) Federal initiatives aiming to assist States that have legalized marijuana with traffic safety, including recommendations for policies and programs to be carried out by the National Highway Traffic Safety Administration.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the results of the study conducted under subsection (a).

SEC. 9. RULE OF CONSTRUCTION.

(a) In General.—Conduct in compliance with this Act and the amendments made by this Act—

(1) shall not be unlawful;

(2) shall not constitute trafficking in a controlled substance under section 401 of the Controlled Substances Act (21 U.S.C. 841) or any other provision of law;

(3) shall not constitute the basis for forfeiture of property under section 511 of the Controlled Sub-
stances Act (21 U.S.C. 881) or section 981 of title 18, United States Code; and

(4) shall not be subject to section 280E of the Internal Revenue Code of 1986, relating to expenditures in connection with the illegal sale of drugs.

(b) PROCEEDS.—The proceeds from any transaction in compliance with this Act and the amendments made by this Act shall not be deemed to be the proceeds of an unlawful transaction under section 1956 or 1957 of title 18, United States Code, or any other provision of law.