Model Legislation:
Rice University’s Baker Institute and
the South Texas College of Law
Drug Policy Collaboration 2013

Part 7 of 8: Definitions and General Provisions

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The following is one of several collections of model statutes produced by the legislation class at South Texas College of Law (STCL) during the spring 2013 semester. The class was offered in collaboration with Rice University’s Baker Institute. Students attended lectures on drug policy, legislation, and statutory interpretation conducted by Dru Stevenson, J.D., STCL professor and Baker Institute Scholar; Nathan Jones, Ph.D., Alfred C. Glassell III Postdoctoral Fellow in Drug Policy; and William Martin, Ph.D., Harry and Hazel Chavanne Senior Fellow in Religion and Public Policy and director of the Baker Institute’s Drug Policy Program. Each student completed a project addressing one aspect of marijuana legalization or postlegalization regulation through a model statute or ordinance. Links to each of the model statutes can be found at bakerinstitute.org/model-legislation-2013. Neither the Baker Institute nor the South Texas College of Law endorse any particular policy. The model legislation has not undergone editorial review by the Baker Institute.
Criminalization of Marijuana—
Definitions:

- Marijuana- Whether growing or not, any part of the cannabis plant- which includes any and all resin derived from. (* http://definitions.uslegal.com/m/marijuana/ )

Marijuana Regulatory Agency:

**** The section is taken from the Federal Tobacco Act 2009. There are some material changes to it, such as the deletion of sections or rewriting specific sections so that it resembles what I believe to be marijuana legislation. The citation for this is 111 S. 579. Actually seeing what the tobacco agency did was really impressive to me. I wish that I would have found this earlier and brought it to the class. Reading through it allowed my mind to conceptualize what all is entailed in the overseeing agency. Furthermore it got my mind thinking of other ideas –ones that I would not have thought of—for the project. Furthermore, this first section is written as though I was speaking on behalf of the purposed legislation- committee report or floor debate***

The agency that I created is called the Marijuana Regulatory Agency. This agency will be brought to life by the enactment of the Federal Marijuana Act of 2013. I looked to empower an agency that had broad reach while still allowing it to punish violators, in a manner that would deter future violations. I have not taken administrative law yet, so I had to look up what exactly a regulatory agency did: “a government body formed or mandated under the terms of la legislative act to ensure compliance with the provisions or the act, and in carrying out its purpose.”

The growing need for marijuana legislation has been a hotly debated topic through the recent years. Through my research I have found many interesting articles weighing on the both sides of the debt; some that I can easily dismiss as immature thinking and others have really grabbed my attention. Some of the easy to dismiss ones are such: legalize it all! It will be like one big party! Everyone will love America. This is the answer to stopping all the wars, everyone will be mellow. On the other side of the argument, there are some that continue to proclaim the drug as a gateway to hell. Legalizing it would cause more problems and cost the country more than is worth doing. In reading through all of these, it is hard not to draw a distinction from alcohol prohibition in the 1920’s to 1930’s. By way of the 18th amendment to the constitution, the government decided the production, transportation, and sale of alcohol illegal. The government carved out a small exception for medical and religious purposes. The overall effect of this act was the most interesting thing. The public grew angry and the demand for alcohol was extremely high. This caused many to see the lucrative side of trying to create and distribute the much needed thirst quencher. However, the enforcement of this act was strong, thus causing a great influx of cases into the judicial system as well as a prison system that was nearly filled to

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1 http://www.businessdictionary.com/definition/regulatory-agency.html
2 http://en.wikipedia.org/wiki/Eighteenth_Amendment_to_the_United_States_Constitution#cite_ref-1
capacity. The government realized that it could not sustain this way, and repealed the 18th amendment in 1933.

The amazing thing in my mind about alcohol prohibition is the overwhelming support it garnered pre-1920. The problem was, many people continued the lifestyle of getting drunk. The lifestyle entails: drunk driving, domestic abuse, and the threat of life of others in drunken rages. As pointed out in the Consumers Union Report on Licit and Illicit Drugs, by Edward Brecher, alcohol prohibition was not repealed because the government found alcohol to be harmless, but rather it was because the prohibition was not working.\(^3\) Furthermore, as stated in his article; alcohol still existed, however now people were drinking bootleg concoctions that were not regulated by the government. Although the legislation sought to decrease alcohol use, the American people began to increase drug use. Little did we know, but this is the time when marijuana caught traction with the people.

The initial marijuana craze was started in New York, where one was able to get a “high” for a quarter.\(^4\) Soon after, many states were noticing the drug’s widespread capability. The draw on the supply side was the profitability, as compared to that of whiskey. Surprisingly, Louisiana passed a law in 1927, which assessed a maximum penalty of $500 or six months imprisonment for possession or sale of marijuana.\(^5\) Most people viewed the enacted legislation as just another hurdle to clear, which only lead to more crime. With the increase of prosecution of marijuana violations, many suppliers/distributors began to increase the price. Some argue that all that the legislation did was harm the consumer… but that seems to be the problem speaking to an externality.

So what can we learn from this? Well one thing is that from the onset, the lawmaking individuals have made marijuana subject to tough penalties. It is also evident that congress has continued to list marijuana with other drugs such as morphine, heroin, and cocaine.\(^6\) To me it seems as though we recognize the inherent dangers of legalization without proper limiting restrictions. However, it is also difficult to turn a blind eye away from the enormous potential marijuana has to bring in revenue from taxation. For example, in 2010 alcohol netted an aggregate total of $6 billion dollars of tax revenue across the states.\(^7\) It is important to note that each state is allowed to set its own tax rate with regard to alcohol. Typically, alcohol is broken out into 3 different groups: liquor, wine, and beer. Furthermore, as marijuana has characteristics of both alcohol and tobacco, it would be wise to analyze the tax revenue from tobacco as well. In 2010, the state and local tax revenue for states was $17.3 billion dollars.\(^8\) As with alcohol, the rate for tobacco is set by the states. The United States median rate (calculated in cents per pack) is 136 with New York

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3 http://www.druglibrary.org/schaffer/Library/studies/cu/CU33.html
4 http://druglibrary.org/schaffer/Library/studies/cu/cu55.html
6 http://druglibrary.org/schaffer/Library/studies/cu/cu56.html#Anchor-5185
7 http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=399
8 http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=403
leading the pack, charging 435 cents per pack and Virginia bringing up the rear in charging only 30 cents.\textsuperscript{9} While the overall tax revenue numbers are staggering, it is worth noting that the population continues to grow in America at a steady pace of roughly 1\% per year.\textsuperscript{10} Too add another wrinkle in the equation; the life expectancy rate is on the climb as well, going from 78 to 79 years old.\textsuperscript{11} When you lay this the notion that over 66\% of Americans have used alcohol\textsuperscript{12} and roughly 19\% of all adults in America smoke\textsuperscript{13} one can begin to realize the enormous impact that taxation on these harmful substances can generate.

And where does all of this tax revenue go? Well according to the Center for Disease Control and Prevention, excessive alcohol consumption cost the United States $244 billion dollars in 2006.\textsuperscript{14} The researchers here found that the cost were largely attributed to losses in workplace productivity (which accounted for 72\%), as well as health care expenses for problems caused by excessive drinking and law enforcement related incidences which account for 20\% of the total. While these numbers are astonishing, they are also underestimations. The numbers are underestimated because they do not consider punitive cost such as pain and suffering that is granted by the courts to the affected party. When you turn the tables and look to the effects of tobacco on society, you will find that just cigarette smoking alone was responsible for over $193 billion in annual health related economic losses.\textsuperscript{15} While looking at statistics and economic impacts of such substances is important in any decision making, it wise to not lose sight of the many people that have lost their lives in an accident in which one or both of these were involved. And that is why I have proposed stringent criminalization legislation, too not only save our country, but also our citizens.

1 S. 85

• SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

  o (a) Short Title.-- This Act may be cited as the 'Federal Marijuana Act of 2013'.

  o (b) Table of Contents.-- The table of contents of this Act is as follows:

    Sec.1.Short title; table of contents.
    • Sec.2.Purposes.
    • Sec.3.Definitions.

\textsuperscript{9} http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=433
\textsuperscript{10} http://databank.worldbank.org/data/views/reports/tableview.aspx
\textsuperscript{11} http://data.worldbank.org/indicator/SP.DYN.LE00.IN/countries/US--XS?display=graph
\textsuperscript{12} http://www.gallup.com/poll/156770/majority-drink-alcohol-averaging-four-drinks-week.aspx
\textsuperscript{13} http://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/
\textsuperscript{14} http://www.cdc.gov/media/releases/2011/p1017_alcohol_consumption.html
\textsuperscript{15} http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/
• TITLE I—GENERAL PROVISIONS
  Sec.101.Establishment of the Marijuana Regulatory Agency.
  Sec.102.Exclusion of other regulatory programs.

  Sec.103.Existing
  Federal statutes maintained.

  Sec.104.Proceedings in the name of the United States; subpoenas; preemption of State and local law; no private right of action.

  Sec.105.Advisory committees.

  Sec.106.Illicit trade.

  Sec.107.Adulterated Marijuana products.

  Sec.108.Misbranded Marijuana products.

  Sec.109.Registration and listing.

  Sec.110.Effective date.

• TITLE II—RESTRICTIONS ON YOUTH ACCESS TO MARIJUANA PRODUCTS AND EXPOSURE OF YOUTH TO MARIJUANA PRODUCT MARKETING AND ADVERTISING
  Sec.201.Prohibitions on youth targeting.

  Sec.202.State law regarding sale of Marijuana products to individuals under age of 21.

  Sec.203.Restrictions on descriptors used in marketing of cigarettes.

• TITLE III—REDUCED-EXPOSURE AND REDUCED-RISK CLAIMS FOR MARIJUANA PRODUCTS, AND RANKING OF MARIJUANA PRODUCT CATEGORIES
  Sec.301.Prohibition of unapproved reduced-exposure and reduced-risk claims.

  Sec.302.Applications for approval of reduced-exposure and reduced-risk claims.

  Sec.303.Standards for approval of applications for reduced-exposure or reduced-risk claims.

  Sec.304.General provisions.

  Sec.305.Establishment of rankings.

  Sec.306.Compulsory licensing.

• TITLE IV—DISCLOSURES TO THE AGENCY REGARDING MARIJUANA PRODUCTS
  Sec.401.Confidential disclosures to the agency.
Sec.402. Tetrahydrocannabinol (THC) reporting requirements for cigarettes.

Sec.403. Tetrahydrocannabinol (THC) reporting requirements for smokeless marijuana products.

- **TITLE V -- TAR AND TETRAHYDROCANNABINOL YIELDS**
  Sec.501. Determination of tar and tetrahydrocannabinol yields of cigarettes.
  Sec.502. Cigarette tar limits.
  Sec.503. Prohibition of smoking article yield terms.
  Sec.504. Disclosure of tar and tetrahydrocannabinol yields of cigarettes.
  Sec.505. Evaluation of marijuana smoke toxicants.

- **TITLE VI -- PUBLIC DISCLOSURES BY MARIJUANA PRODUCT**
  Sec.601. Disclosures on packages of smoking articles.
  Sec.603. Public disclosure of ingredients.
  Sec.604. Cigarette label and advertising warnings.

- **TITLE VII -- ENFORCEMENT PROVISIONS**
  Sec.701. Prohibited acts.
  Sec.702. Injunction proceedings.
  - Sec.703. Penalties.
  - Sec.704. Seizure.
  - Sec.705. Report of minor violations.
  - Sec.706. Inspection.
  - Sec.707. Effect of compliance.
  - Sec.708. Imports.
  - Sec.709. Marijuana products for export.

- **TITLE VIII -- MISCELLANEOUS PROVISIONS**
  Sec.801. User fees.
  Sec.802. Fire safety standards for cigarettes.
  Sec.803. Inspection by the alcohol and marijuana tax trade bureau of records of certain cigarette and smokeless marijuana sellers.
  Sec.804. Marijuana grower protection.
  - Sec.805. Severability.
• **SEC. 2. PURPOSES.** The purposes of this Act are--
  
  o (1) to provide Federal authority and an appropriate administrative body designed specifically to regulate marijuana products, including smoking articles and smokeless marijuana products;
  
  o (2) to affirm the lawfulness of marijuana products and to ensure the ability of private manufacturers to compete for the business of adult users of marijuana products, including smokers and users of smokeless marijuana, in a free enterprise system;
  
  o (3) to confirm that cigarettes and other marijuana products, as customarily marketed, are not subject to regulation under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), but instead are subject to regulation under this and other appropriate Acts;
  
  o (4) to ensure that existing Federal laws regulating certain aspects of marijuana and marijuana product production, as well as marijuana product taxation, testing, marketing, promotion, and advertising remain in full force and effect, except as repealed or amended by this Act;
  
  o (5) to ensure that marijuana products sold in the United States conform with all applicable laws and regulations;
  
  o (6) to strengthen enforcement against illegal sales of marijuana products, including the smuggling of illegal cigarettes and other marijuana products into the United States;
  
  o (7) to restrict access to marijuana products on the part of individuals younger than the minimum age established by law for the purchase of marijuana products, and to limit the exposure of such individuals to marijuana product advertising, marketing, and promotion;
  
  o (8) to continue to permit the sale of marijuana products to adults in conjunction with measures to ensure that marijuana products are not sold or accessible to those who have not attained the minimum age established by law for the purchase of marijuana products;
• (9) to allow marijuana product manufacturers to communicate truthful and non-misleading information, in advertising and otherwise, concerning marijuana products to adult users of marijuana products, including smokers and users of smokeless marijuana;

• (10) to ensure that marijuana products sold in the United States do not present adults who choose to use those products with additional health risks beyond those inherent in marijuana use;

• (11) to establish principles and policies governing marijuana products to promote reductions in morbidity and mortality associated with marijuana products, to inform adult users of marijuana products about the relative risks of chronic diseases and serious adverse health conditions associated with marijuana use presented by different categories of marijuana products, and to encourage manufacturers of marijuana products to develop and introduce marijuana products that present reduced exposure of marijuana product users to toxicants in marijuana or in marijuana smoke and marijuana products that present a reduced risk of chronic diseases and serious adverse health conditions associated with marijuana use;

• (12) to promote the ability of adult consumers of marijuana products to obtain truthful and non-misleading health-related information regarding the marijuana products that those consumers choose to use, while protecting the trade secrets of marijuana product manufacturers; and

• (13) to establish a comprehensive Federal program to deal with marijuana, including the subject matters addressed in paragraphs (1) through (12), such that commerce and the national economy may be--
  • (A) protected to the maximum extent; and
  • (B) not impeded by diverse, non-uniform, and confusing requirements or prohibitions.

SEC. 3. DEFINITIONS. In this Act:

• (1) ADMINISTRATOR.--
  The term 'Administrator' means the chief executive of the Marijuana Regulatory Agency established under section 101.

• (2) ADULT.--
  The term 'adult' means any individual who has attained the minimum age under applicable law to be an individual to whom marijuana products may lawfully be sold.
o (3) ADULT-ONLY FACILITY.--
The term 'adult-only facility' means a facility or restricted area, whether open-air or enclosed, where the operator ensures, or has a reasonable basis to believe, that no youth is present. A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility, if the operator ensures, or has a reasonable basis to believe, that no youth is present during any period of operation as an adult-only facility.

o (4) ADVERTISING.--
The term 'advertising' means a communication to the general public by a marijuana product manufacturer, distributor, retailer, or its agents, which identifies a marijuana product by brand name and is intended by such manufacturer, distributor, retailer, or its agents to promote purchases of such marijuana product. Such term shall not include--

- (A) any advertising or other communication in any marijuana trade publication or marijuana trade promotional material;
- (B) the content of any scientific publication or presentation, or any patent application or other communication to the United States Patent and Trademark Office or any similar office in any foreign country;
- (C) any corporate or financial report or financial communication;
- (D) any communication to a lending institution or to securities holders;
- (E) any communication not intended for public display or public exposure, except that a direct mailing or direct electronic communication of what otherwise is advertising shall be deemed to be advertising;
- (F) any communication in, on, or within a factory, office, plant, warehouse, or other facility related to or associated with the development, manufacture, or storage of marijuana products;
- (G) any communication to any governmental agency, body, official, or employee;
- (H) any communication to any journalist, editor, Internet blogger, or other author;
- (I) any communication in connection with litigation, including arbitration and similar proceedings; or
- (J) any editorial advertisement that addresses a public issue.

o (5) AFFILIATE.--
The term 'affiliate' means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. The terms 'owns', 'is owned', and 'ownership' mean ownership of an equity interest, or the equivalent thereof, of 50 percent or more.
(6) AGENCY.--

The term 'Agency' means the Marijuana Regulatory Agency established under section 101.

(7) AGE-VERIFIED ADULT.--

The term 'age-verified adult' means any individual who is an adult and--

- (A) who has stated or acknowledged, after being asked, that he or she is an adult and a marijuana product user, and has presented proof of age identifying the individual and verifying that the individual is an adult; or

- (B) whose status as an adult has been verified by a commercially available database of such information.

(8) ANNUAL REPORT.--

The term 'annual report' means a marijuana product manufacturer's annual report to the Agency, which provides ingredient information and tetrahydrocannabinol yield ratings for each brand style that the marijuana product manufacturer manufactures for commercial distribution domestically.

(9) BRAND NAME.--

The term 'brand name' means a brand name of a marijuana product distributed or sold domestically, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicium of product identification identical or similar to, or identifiable with, those used for any domestic brand of marijuana product. Such term shall not include the corporate name of any marijuana product manufacturer that does not, after the effective date of this Act, sell a brand style of marijuana product in the United States that includes such corporate name.

(10) BRAND NAME SPONSORSHIP.--

The term 'brand name sponsorship' means an athletic, musical, artistic, or other social or cultural event, series, or tour, as to which payment is made, or other consideration is provided, in exchange for use of a brand name or names--

- (A) as part of the name of the event; or

- (B) to identify, advertise, or promote such event or an entrant, participant, or team in such event in any other way.

(11) BRAND STYLE.--

The term 'brand style' means a marijuana product having a brand name, and distinguished by the selection of the marijuana, ingredients, structural materials, format, configuration, size, package, product descriptor, amount of marijuana, or yield of tar or tetrahydrocannabinol.
(12) CARTON.--
The term 'carton' means a container into which packages of marijuana products are directly placed for distribution or sale (such as a carton containing 10 packages of cigarettes), but does not include cases intended for shipping.

(13) CARTOON.--
The term 'cartoon' means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

- (A) The use of comically exaggerated features.
- (B) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique.
- (C) The attribution of unnatural or extrahuman abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds, or transformation.

Such term shall not include any drawing or other depiction that, on the effective date of this Act, was in use in the United States in any marijuana product manufacturer's corporate logo or in any marijuana product manufacturer's marijuana product packaging.

(14) CIGAR.--
The term 'cigar' has the meaning given such term by the Alcohol and Marijuana Tax and Trade Bureau.

(15) CIGARETTE.--
The term 'cigarette' means--

- (A) any roll of marijuana wrapped in paper or in any substance not containing marijuana; or
- (B) any roll of marijuana wrapped in any substance containing marijuana which, because of the appearance of the roll of marijuana, the type of marijuana used in the filler, or its package or labeling, is likely to be offered to, or purchased by, consumers of a cigarette described in subparagraph (A).

(16) COMPETENT AND RELIABLE SCIENTIFIC EVIDENCE.--
The term 'competent and reliable scientific evidence' means evidence based on tests, analyses, research, or studies, conducted and evaluated in an objective manner by individuals qualified to do so, using procedures generally accepted in the relevant scientific disciplines to yield accurate and reliable results.

(17) DISTRIBUTOR.--
The term 'distributor' means any person who furthers the distribution of marijuana products, whether domestic or imported, at any point from the original place of
manufacture to the person who sells or distributes the marijuana product to individuals for personal consumption. Common carriers, retailers, and those engaged solely in advertising are not considered distributors for purposes of this Act.

- **(18) DOMESTIC, DOMESTICALLY.**
  
  The terms 'domestic' and 'domestically' mean within the United States, including activities within the United States involving advertising, marketing, distribution, or sale of marijuana products that are intended for consumption within the United States.

- **(19) HUMAN IMAGE.**
  
  The term 'human image' means any photograph, drawing, silhouette, statue, model, video, likeness, or depiction of the appearance of a human being, or the appearance of any portion of the body of a human being.

- **(20) ILLICIT MARIJUANA PRODUCT.**
  
  The term 'illicit marijuana product' means any marijuana product intended for commercial distribution for use by consumers in the United States:
  
  - (A) with respect to which not all applicable duties or taxes have been paid in full;
  - (B) that has been stolen, smuggled, or is otherwise contraband,
  - (C) that is counterfeit; or
  - (D) that has or had a label, labeling, or packaging stating, or that stated, that the product is or was for export only, or that it is or was at any time restricted by the Internal Revenue Code

- **(21) ILLICIT TRADE.**
  
  The term 'illicit trade' means any transfer, distribution, or sale in interstate commerce of any illicit marijuana product.

- **(22) IMMEDIATE CONTAINER.**
  
  The term 'immediate container' shall not include package liners.

- **(23) INDIAN TRIBE.**
  
  The term 'Indian tribe' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act.

- **(24) INGREDIENT.**
  
  The term 'ingredient' means marijuana and any substance added to marijuana to have an effect in the final marijuana product or when the final marijuana product is used by a consumer.

- **(25) INTERNATIONAL ORGANIZATION FOR STANDARDIZATION TESTING REGIMEN; ISO TESTING REGIMEN.**
• (A) IN GENERAL.-- The terms 'International Organization for Standardization testing regimen' or 'ISO testing regimen' mean the methods for measuring cigarette smoke yields, as set forth in the most recent versions of the following:
  • (i) ISO 3308, entitled 'Routine analytical cigarette-smoking machine--Definition of standard conditions'.
  • (ii) ISO 4387, entitled 'Cigarettes--Determination of total and tetrahydrocannabinola-free dry particulate matter using a routine analytical smoking machine'.
  • (iii) ISO 10315, entitled 'Cigarettes--Determination of tetrahydrocannabinola in smoke condensates--Gas-chromatographic method'.
  • (iv) ISO 10362-1, entitled 'Cigarettes--Determination of water in smoke condensates--Part 1: Gas-chromatographic method'.
  • (v) ISO 8454, entitled 'Cigarettes--Determination of carbon monoxide in the vapour phase of cigarette smoke--NDIR method'.

• (B) CLARIFICATION.-- A cigarette that does not burn down in accordance with the testing regimen standards described in subparagraph (A) may be measured under the same puff regimen using the number of puffs that such a cigarette delivers before it extinguishes, plus an additional 3 puffs, or with such other modifications as the Administrator may approve.

  o (26) INTERSTATE COMMERCE.--
  The term 'interstate commerce' means all trade, traffic, or other commerce--
  • (A) within the District of Columbia, or any territory or possession of the United States;
  • (B) between any point in a State and any point outside thereof;
  • (C) between points within the same State through any place outside such State; or
  • (D) over which the United States has jurisdiction.

  o (27) LABEL.--
  The term 'label' means a display of written, printed, or graphic matter upon or applied securely to the immediate container of a marijuana product.

  o (28) LABELING.--
  The term 'labeling' means all labels and other written, printed, or graphic matter--
  • (A) upon or applied securely to any marijuana product or any of its containers or wrappers; or
  • (B) accompanying a marijuana product.
(29) Cannabis Shop.--
The term 'cannabis shop' has the meaning given such as an establishment that supplies patrons with various types of marijuana.

(30) LOOSE MARIJUANA.--
The term 'loose marijuana means any form of marijuana, alone or in combination with any other ingredient or material, that, because of its appearance, form, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as marijuana for making or assembling cigarettes, incorporation into pipes, or otherwise used by consumers to make any smoking or otherwise consumption article

(31) MANUFACTURE.--
The term 'manufacture' means to design, manufacture, fabricate, assemble, process, package or repackage, label or relabel, import, or hold or store in a commercial quantity. Such term shall not include--

- (A) the growing, curing, destemming, or aging of marijuana; or
- (B) the holding, storing, or transporting of a marijuana product by a common carrier for hire, a public warehouse, a testing laboratory, a distributor, or a retailer.

(32) TETRAHYDROCANNABINOL-CONTAINING PRODUCT.--
The term 'tetrahydrocannabinol-containing product' means a product intended for human consumption, other than a marijuana product, that contains added tetrahydrocannabinol, whether or not in the form of a salt or solvate, which tetrahydrocannabinol has been--

- (A) synthetically produced; or
- (B) obtained from marijuana or other source of tetrahydrocannabinol.

(33) OUTDOOR ADVERTISING.--

- (A) IN GENERAL.-- Except as provided in subparagraph (B), the term 'outdoor advertising' means--
  - (i) a billboard;
  - (ii) a sign or placard in an arena, stadium, shopping mall, or video game arcade (whether any of the foregoing is open air or enclosed), but not including any such sign or placard located in an adult-only facility; and
  - (iii) any other advertisement placed outdoors.

- (B) LIMITATION.-- The term 'outdoor advertising' shall not include--
  - (i) an advertisement on the outside of a marijuana product manufacturing facility; or
  - (ii) an advertisement that--
(I) is inside a retail establishment that sells marijuana products (other than solely through a vending machine or vending machines);

(II) is placed on the inside surface of a window facing outward; and

(III) is no larger than 10 square feet.

(34) PACKAGE.--

The term 'package' means a pack, box, carton, pouch, or container of any kind in which a marijuana product or marijuana products are offered for sale, sold, or otherwise distributed to consumers. Such term shall not include an outer container used solely for shipping 1 or more packages of a marijuana product or marijuana products.

(35) PERSON.--

The term 'person' means any individual, partnership, corporation, committee, association, organization or group of persons, or other legal or business entity.

(36) PROOF OF AGE.--

The term 'proof of age' means a driver's license or other form of identification that is issued by a governmental authority and includes a photograph and a date of birth of the individual.

(37) RAW MARIJUANA.--

The term 'raw marijuana' means marijuana in a form that is received by a marijuana product manufacturer as an agricultural commodity, whether in a form that is--

(A) natural, stem or leaf;

(B) cured or aged; or

(C) as parts or pieces, but not in a reconstituted form, extracted pulp form, or extract form.

(38) REDUCED-EXPOSURE CLAIM.--

The term 'reduced-exposure claim' means a statement in advertising or labeling intended for 1 or more consumers of marijuana products, that a marijuana product provides a reduced exposure of users of that marijuana product to 1 or more toxicants, as compared to an appropriate reference marijuana product or category of marijuana products. A statement or representation that a marijuana product or the marijuana in a marijuana product contains 'no additives' or is 'natural', or that uses a substantially similar term is not a reduced-exposure claim if the advertising or labeling that contains such statement or representation also contains the disclosure required by section 108(h).
(39) REDUCED-RISK CLAIM.--

The term 'reduced-risk claim' means a statement in advertising or labeling intended for 1 or more consumers of marijuana products, that a marijuana product provides to users of that product a reduced risk of morbidity or mortality resulting from 1 or more chronic diseases or serious adverse health conditions associated with marijuana use, as compared to an appropriate reference marijuana product or category of marijuana products, even if it is not stated, represented, or implied that all health risks associated with using that marijuana product have been reduced or eliminated. A statement or representation that a marijuana product or the marijuana in a marijuana product contains 'no additives' or is 'natural', or that uses a substantially similar term is not a reduced-risk claim if the advertising or labeling that contains such statement or representation also contains the disclosure required by section 108(h).

(40) RETAILER.--

The term 'retailer' means any person that--

- (A) sells marijuana products to individuals for personal consumption; or
- (B) operates a facility where the sale of marijuana products to individuals for personal consumption is permitted.

(41) SAMPLE.--

The term 'sample' means a marijuana product distributed to members of the public at no cost for the purpose of promoting the product, but excludes marijuana products distributed--

- (A) in conjunction with the sale of other marijuana products,
- (B) for market research, medical or scientific study or testing, or teaching,
- (C) to persons employed in the marijuana industry;
- (D) to adult consumers in response to consumer complaints;
- (E) to employees of the manufacturer of the marijuana product;
- (F) to persons whom have a medicinal marijuana prescription.

(42) SMALL BUSINESS.--

The term 'small business' means a marijuana product manufacturer that--

- (A) employs 150 or fewer employees; and
- (B) during the 3-year period prior to the calendar year in which this Act is enacted, had an average annual gross revenue from marijuana products that did not exceed $5,000,000.
(43) SMOKELESS MARIJUANA PRODUCT.--

The term 'smokeless marijuana product' means any form of finely cut, ground, powdered, reconstituted, processed, or shaped marijuana, leaf marijuana, or stem marijuana, whether or not combined with any other ingredient, whether or not in extract or extracted form, and whether or not incorporated within any carrier or construct, that is intended to be consumed orally or otherwise ingested by the body.

(44) SMOKING ARTICLE.--

The term 'smoking article' means any marijuana-containing article that is intended, when used by a consumer, to be burned or otherwise to employ heat to produce a vapor, aerosol, or smoke that--

- (A) incorporates components of marijuana or derived from marijuana; and
- (B) is intended to be inhaled by the user.

(45) STATE.--

The term 'State' means any State of the United States and, except as otherwise specifically provided, includes any Indian tribe or tribal organization, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, Johnston Atoll, the Northern Marianas, and any other trust territory or possession of the United States.

(46) TAR.--

The term 'tar' means dry particulate matter as defined in ISO 4387.

(47) MARIJUANA.--

The term 'marijuana' means a marijuana plant or any part of a harvested marijuana plant intended for use in the production of a marijuana product, including leaf, lamina, stem, or stalk, whether in green, cured, or aged form, whether in raw, treated, or processed form, and whether or not combined with other materials, including any by-product, extract, extracted pulp material, or any other material derived from a marijuana plant or any component thereof, and including strip, filler, stem, powder, and granulated, blended, or reconstituted forms of marijuana.

(48) MARIJUANA PRODUCT.--

The term 'marijuana product' means--

- (A) the singular of the term 'marijuana products', as defined in Internal Revenue Code
- (B) any other product that contains marijuana as a principal ingredient and that, because of its appearance, type, or the marijuana used in the product, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a marijuana product as described in subparagraph (A); and
• (C) any form of marijuana or any construct incorporating marijuana, intended for human consumption, whether by--
  • (i) inhalation of vapor, aerosol, or smoke; or
  • (ii) any other means.

○ (49) MARIJUANA PRODUCT CATEGORY.--

The term 'marijuana product category' means a type of marijuana product characterized by its composition, components, and intended use, and includes marijuana products classified as cigarettes, loose marijuana for roll-your-own marijuana products, little cigars, cigars, pipe marijuana, and other forms of marijuana products (which are treated in this Act collectively as a single category).

○ (50) MARIJUANA PRODUCT COMMUNICATION.--

The term 'marijuana product communication' means any means, medium, or manner for providing information relating to any marijuana product, including face-to-face interaction, mailings by postal service or courier to an individual who is an addressee, and electronic mail to an individual who is an addressee.

○ (51) MARIJUANA PRODUCT MANUFACTURER.--

The term 'marijuana product manufacturer' means an entity that directly--

• (A) manufactures a marijuana product that is intended to be distributed commercially in the United States, including a marijuana product intended to be distributed commercially in the United States through an importer;

• (B) is the first purchaser for resale in the United States of marijuana products manufactured outside the United States for distribution commercially in the United States; or

• (C) is a successor or assign of any of the foregoing.

○ (52) TOXICANT.--

The term 'toxicant' means a chemical or physical agent that produces an adverse biological effect.

○ (53) TRANSIT ADVERTISEMENTS.--

The term 'transit advertisements' means advertising on or within private or public vehicles and all advertisements placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar location.

○ (54) TRIBAL ORGANIZATIONAL.--

The term 'tribal organization' has the meaning given such term by section 4(1) of the Indian Self Determination and Education Assistance Act
(55) UNITED STATES.--
The term 'United States' means the several States, as defined in this Act.

(56) VENDING MACHINE.--
The term 'vending machine' means any mechanical, electric, or electronic self-service device that, upon insertion of money, tokens, or any other form of payment, automatically dispenses marijuana products.

(57) VIDEO GAME ARCADE.--
The term 'video game arcade' means an entertainment establishment primarily consisting of video games (other than video games intended primarily for use by adults) or pinball machines.

(58) YOUTH.--
The term 'youth' means any individual who is not an adult.

• TITLE I-- GENERAL PROVISIONS
• SEC. 101. ESTABLISHMENT OF THE MARIJUANA REGULATORY AGENCY.
  (a) Establishment of Agency.-- There is established within the Department of Health and Human Services the Marijuana Regulatory Agency. The Agency shall not be part of the Food and Drug Administration, and shall not in any way be under the authority of the Commissioner of Food and Drugs.

  (b) Agency Head; Regulations; Cost-Benefit Analysis.--
  (1) IN GENERAL.--
  The Agency shall be headed by an Administrator, to be appointed by the President with the advice and consent of the Senate, who shall have the authority provided under this Act, perform the functions that relate to the subject matter of this Act, and have the authority to promulgate regulations for the efficient enforcement of this Act.

  (2) REGULATIONS.--
  In promulgating regulations under section 107, section 108, or section 502(c), or any regulation that is likely to have an annual effect on the economy of $50,000,000 or more, or have a material adverse effect on adult users of marijuana products, marijuana product manufacturers, distributors or retailers, the Administrator shall--

  • (A) determine the technological and economic ability of parties that would be required to comply with the regulation involved to comply with such regulation;

  • (B) consider experience gained under any similar relevant regulations at the Federal or State level; and
• (C) determine the reasonableness of the relationship between the costs of complying with such regulation and the public health benefits to be achieved by such regulation.

• **SEC. 102. EXCLUSION OF OTHER REGULATORY PROGRAMS.**
  o (a) Exclusion of Marijuana Products and Tetrahydrocannabinol-Containing Products From the Federal Food, Drug, and Cosmetic Act.-- No marijuana product or tetrahydrocannabinol-containing product shall be regulated as a food, drug, or device under subsection (f), (g), or (h) of section 201, or chapter IV or V, of the Federal Food, Drug, and Cosmetic Act, except that any marijuana product commercially distributed domestically and any tetrahydrocannabinol-containing product commercially distributed domestically shall be subject to chapter V of such Act if the manufacturer or a distributor of such product markets it with an explicit claim that the product is intended for use in the cure, mitigation, treatment, or prevention of disease in man or other animals, within the meaning of section 201(g)(1)(C) or section 201(h)(2) of such Act.
  
o (b) Limitation on Effect of This Act.-- Nothing in this Act shall be construed to--
  
  • (1)
    establish a precedent with respect to any other industry, situation, circumstance, or legal action; or
  
  • (2)
    affect any action pending in any Federal, State, or tribal court, or any agreement, consent decree, or contract of any kind.

  o (c) Exclusions From Authority of Administrator.-- The authority granted to the Administrator under this Act shall not apply to--
  
  • (1)
    raw marijuana that is not in the possession or control of a marijuana product manufacturer;
  
  • (2)
    raw marijuana that is grown for a marijuana product manufacturer by a grower, and that is in the possession of that grower or of a person that is not a marijuana product manufacturer and is within the scope of subparagraphs (A) through (F) of paragraph (3); or
  
  • (3)
    the activities, materials, facilities, or practices of persons that are not marijuana product manufacturers and that are--
    
    • (A) producers of raw marijuana, including marijuana growers;
    
    • (B) marijuana warehouses, and other persons that receive raw marijuana from growers;
(C) marijuana grower cooperatives;
(D) persons that cure raw marijuana;
(E) persons that process raw marijuana; and
(F) persons that store raw marijuana for aging.

If a producer of raw marijuana is also a marijuana product manufacturer, an affiliate of a marijuana product manufacturer, or a person producing raw marijuana for a marijuana product manufacturer, then that producer shall be subject to this Act only to the extent of that producer's capacity as a marijuana product manufacturer.

• SEC. 103. EXISTING FEDERAL LAWS MAINTAINED.

  o (a) In General.-- Except as otherwise amended or repealed by this Act, all Federal laws in effect on the effective date of this Act that regulate marijuana, marijuana products, or marijuana product manufacturers shall remain in effect. Such laws shall include--

    • (1) the Federal Cigarette Labeling and Advertising Act;
    • (2) section 1926 of the Public Health Service Act; and
    • (3) those laws authorizing the regulation of marijuana, marijuana products, or marijuana product manufacturers by the Federal Trade Commission, the Department of Agriculture, the Environmental Protection Agency, the Internal Revenue Service, and the Alcohol and Marijuana Tax and Trade Bureau of the Department of the Treasury.

• SEC. 104. PROCEEDINGS IN THE NAME OF THE UNITED STATES; SUBPOENAS; PREEMPTION OF STATE AND LOCAL LAW; NO PRIVATE RIGHT OF ACTION.

In carrying out the purpose described in 2(13) the following shall apply:

  o (1) All proceedings for the enforcement, or to restrain violations, of this Act shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may be enforceable in any other district in any proceeding under this section. No State, or political subdivision thereof, may proceed or intervene in any Federal or State court under this Act or under any regulation promulgated under this Act, or allege any violation thereof, except a violation by the Administrator. Nothing in this Act shall be construed to create a right of action by any private person for any violation of any provision of this Act or of any regulation promulgated under this Act.
With respect to any subject matter covered by this Act or by any regulation promulgated under this Act, no conflicting requirement or prohibition shall be imposed under State or local law upon any marijuana product manufacturer or distributor.

Paragraph (2) shall not apply to any requirement or prohibition imposed under State or local law prior to April 29, 2013.

**SEC. 105. ADVISORY COMMITTEES.**

(a) Establishment.-- The Administrator shall establish advisory committees for purposes required by this Act and otherwise as the Administrator determines appropriate.

(b) Composition.--

(1) IN GENERAL.--

An advisory committee established under this Act shall be composed of 11 members, of whom--

(A) 3 members shall be officers or employees of the Federal Government, or a State or local government;

(B) 3 members shall be representatives of the interests of scientific and health professionals;

(C) 2 members shall be representatives of the interests of the general public; and

(D) 3 members shall be representatives of the marijuana products manufacturing industry, of which, 1 such member shall be a representative of small businesses.

(2) ADMINISTRATIVE PROVISIONS.--
The Administrator shall designate the chairperson of each advisory committee under this Act from among its members, shall furnish any such advisory committee with clerical and other assistance, and shall establish for all members (other than those who are employees of the Federal Government), appropriate compensation and travel expenses.

**SEC. 106. ILICIT TRADE.**

(a) No Action To Increase Illicit Trade.-- The Administrator shall not promulgate any regulation or take any other action under this Act that has the effect of--

(1) increasing illicit trade involving marijuana or any marijuana product; or
making affected marijuana products unacceptable to a substantial number of the current users of such products, thereby creating a substantial risk that such users will resort to illicit marijuana products, or marijuana products that are otherwise noncompliant or unlawful.

(b) Study and Report.--

(1) STUDY.--

The Administration shall, after consultation with other relevant agencies, conduct a study of trade in marijuana products that involves the passage of such products either from or to any foreign country across any border of the United States, to--

(A) collect data on such trade in marijuana products, including illicit trade involving marijuana products, and make recommendations on the monitoring of such trade;

(B) collect data on any advertising intended to be broadcast, transmitted, or distributed from the United States to another country and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, such advertising; and

(C) collect data on such trade in marijuana products by a person that is not--

(i) a participating manufacturer; or

(ii) an affiliate or subsidiary of a participating manufacturer.

(2) REPORT.--

Not later than 18 months after the effective date of this Act, the Administrator shall submit to the Secretary, and the appropriate committees of Congress, a report concerning the study conducted under paragraph (1).

SEC. 107. ADULTERATED MARIJUANA PRODUCTS. A marijuana product shall be deemed to be adulterated--

(1) if such product bears or contains any poisonous or deleterious substance other than--

(A) marijuana;

(B) a substance naturally present in marijuana;

(C) a pesticide or fungicide chemical residue in or on marijuana if such pesticide or fungicide chemical is registered by the Environmental Protection Agency for use on marijuana in the United States; or
• (D) in the case of imported marijuana, a residue of a pesticide or fungicide chemical that--
  • (i) is approved for use in the country of origin of the marijuana; or
  • (ii) has not been banned, and the registration of which has not been canceled, by the Environmental Protection Agency for use on marijuana in the United States that may render it injurious to health, but in the event that the substance is not an added substance, such marijuana product shall not be considered adulterated under this subsection if the quantity of such substance in such marijuana product does not ordinarily render it injurious to health;
  o (2)
    if there is significant scientific agreement that, as a result of the marijuana that such product contains, such product presents a risk to human health that is materially higher than the risk presented by--
  • (A) such product on the effective date of this Act; or
  • (B) if such product was not distributed commercially domestically on that date, by comparable marijuana products of the same style and within the same category that were commercially distributed domestically on that date;
  o (3)
    if such product has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth;
  o (4)
    if the package of such product is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;
  o (5)
    if the tar yield of such product is in violation of section 502; or
  o (6)
    if such product is not in compliance with the standard prescribed by section 803.

• SEC. 108. MISBRANDED MARIJUANA PRODUCTS. A marijuana product shall be deemed to be misbranded--
  o (1)
    if the labeling of such product is false or misleading in any particular;
  o (2)
    if such product is in package form unless the product bears a label containing--
• (A) an identification of the type of product, by the common or usual name of such type of product;

• (B) an accurate statement of the quantity of the contents in the package in terms of weight, measure, or numerical count, except that reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations promulgated by the Administrator;

• (C) the name and place of business of the marijuana product manufacturer, packer, or distributor; and

• (D) the information required by section 601(c) and (e)

  o (3)
  if any word, statement, or other information required by or under authority of this Act to appear on the label, labeling, or advertising of such product is not prominently placed thereon with such conspicuousness (as compared with other words, statements, or designs on the label, labeling, or advertising, as applicable) and in such terms as to render it reasonably likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

  o (4)
  if any word, statement, or other information is required by this Act to appear on the label of such product, unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such marijuana product, or is easily legible through the outside container or wrapper;

  o (5)
  if such product was manufactured, prepared, or processed in an establishment not duly registered under section 109, if such product was not included in a list required by section 109, or if a notice or other information with respect to such product was not provided as required by section 109;

  o (6)
  if the packaging, labeling, or advertising of such product is in violation of this Act or of an applicable regulation promulgated in accordance with this Act;

  o (7)
  if such product contains marijuana or another ingredient as to which a required disclosure under this Act was not made;

  o (8)
  if such product is labeled or advertised, or the marijuana contained in such product is advertised, as--
• (A) containing 'no additives' or any substantially similar term, unless the labeling or advertising, as applicable, also contains, clearly and prominently, the following disclosure: 'No additives in our marijuana does NOT mean safer'; or

• (B) being 'natural', or any substantially similar term, unless the labeling or advertising, as applicable, also contains, clearly and prominently, the following disclosure: 'Natural does NOT mean safer';

  (9) if in the labeling or advertising of such product a term descriptive of the marijuana in the marijuana product is used otherwise than in accordance with a sanction or approval granted by a Federal agency;

  (10) if with respect to such product a disclosure required by section 603 was not made;

  (11) if with respect to such product a certification required by section 803 was not submitted or is materially false or misleading; or

  (12) if the manufacturer or distributor of such product made with respect to the product a claim prohibited by section 301.

• SEC. 109. REGISTRATION AND LISTING.

  (a) Definitions.-- In this section:

  (1) MANUFACTURE, PREPARATION, OR PROCESSION.--

  The term 'manufacture, preparation, or processing' includes repackaging or otherwise changing the container, wrapper, or label of any marijuana product package other than the carton in furtherance of the distribution of the marijuana product from the original place of manufacture to the person that makes final delivery or sale to the ultimate consumer or user. Such term shall not include the addition of a tax marking or other marking required by law to an already packaged marijuana product.

  (2) NAME.--

  The term 'name' includes, in the case of a partnership, the name of the general partner and, in the case of a privately held corporation, the name of the chief executive officer of the corporation and the State of incorporation.

  (b) Annual Registration.-- Not later than December 31, 2013, and December 31 of each year thereafter, a person that owns or operates any establishment in any State engaged in the manufacture, preparation, or processing of a marijuana product or products for
commercial distribution domestically shall register with the Administrator its name, places of business, and all such establishments.

- (c) New Producers.-- A person, upon first engaging, for commercial distribution domestically, in the manufacture, preparation, or processing of a marijuana product or products in any establishment that it owns or operates in any State, shall immediately register with the Administrator its name, places of business, and such establishment.

- (d) Registration of Foreign Establishments.--
  
  - (1) IN GENERAL.--
    
    Not later than December 31, 2013, and December 31 of each year thereafter, a person that, within any foreign country, owns or operates any establishment engaged in the manufacture, preparation, or processing of a marijuana product that is imported or offered for import into the United States shall, through electronic means or otherwise as permitted by the Administrator, register with the Administrator the name and place of business of each such establishment, the name of the United States agent for the establishment, and the name of each importer of such marijuana product in the United States that is known to such person.

  - (2) OTHER INFORMATION.--
    
    A person described in paragraph (1) shall, in addition to the information required under paragraph (1), provide the information required by subsection (j), including sales made by mail or through the Internet, or other electronic means.

  - (3) COOPERATIVE AGREEMENTS.--
    
    The Administrator may enter into cooperative arrangements with officials of foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether marijuana products manufactured, prepared, or processed by an establishment described in paragraph (1), if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 708.

- (e) Additional Establishments.-- A person duly registered in accordance with the preceding subsections of this section shall immediately register with the Administrator any additional establishment that it owns or operates and in which it begins the manufacture, preparation, or processing of a marijuana product or products for commercial distribution domestically or for import into the United States.

- (f) Exclusions From Application of This Section.-- The preceding subsections of this section shall not apply to--
  
  - (1)
    
    persons that manufacture, prepare, or process marijuana products solely for use in research, teaching, chemical or biological analysis, or export; or
such other classes of persons as the Administrator may by regulation exempt from the application of this section upon a finding that registration by such classes of persons in accordance with this section is not necessary for the protection of the public health.

- (2)

(g) Inspection of Premises.-- An establishment registered with the Administrator pursuant to this section shall be subject to inspection pursuant to section 706. An established described in the preceding sentence that is engaged in the manufacture, preparation, or processing of a marijuana product or products shall be inspected under section 706 by 1 or more officers or employees duly designated by the Administrator at least once in the 2-year period beginning with the date of registration of such establishment pursuant to this section and at least once in every successive 2-year period thereafter, except that the inspection of establishments outside the United States may be conducted by other personnel pursuant to a cooperative arrangement under subsection (d)(3).

- (h) Filing of Lists of Marijuana Products Manufactured, Prepared, or Processed by Registrants; Statements; Accompanying Disclosures.--

- (1) FILING OF LISTS.--

A person that registers with the Administrator under subsection (b), (c), (d), or (e) shall, at the time of such registration, file with the Administrator a list of all brand styles (with each brand style in each list listed by the common or usual name of the marijuana product category to which it belongs and by any proprietary name) that are being manufactured, prepared, or processed by such person for commercial distribution domestically or for import into the United States, and that such person has not included in any list of marijuana products filed by such person with the Administrator under this paragraph or paragraph (2) prior to such time of registration. Such list shall be prepared in such form and manner as the Administrator may prescribe, and shall be accompanied by the label for each such brand style and a representative sampling of any other labeling and advertising for each such brand style.

- (2) REPORTS OF INFORMATION.--

A person that registers with the Administrator under this section (referred in this paragraph as the 'registrant') shall report to the Administrator, not later than August 30 the preceding 6-month period from January through June, and not later than February 28 (or 29 as applicable) for the preceding 6-month period from July through December, each year the following information:

- (A) A list of each brand style introduced by the registrant for commercial distribution domestically or for import into the United States that has not been included in any list previously filed by such registrant with the Administrator under this subparagraph or paragraph (1). A list under this subparagraph shall list a brand style by the common or usual name of the marijuana product category to which it belongs and by any proprietary name, and shall be accompanied by the other information required by paragraph (1).
• (B) If, subsequent to the date on which the registrant last made a report under this paragraph (or if such registrant has not previously made a report under this paragraph, after the effective date of this Act), such registrant has discontinued the manufacture, preparation, or processing for commercial distribution domestically or for import into the United States of a brand style included in a list filed by such registrant under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity (by the common or usual name of the marijuana product category to which it belongs and by any proprietary name) of such marijuana product.

• (C) If, subsequent to the date on which the registrant reported pursuant to subparagraph (B) a notice of discontinuance of a marijuana product, the registrant has resumed the manufacture, preparation, or processing for commercial distribution domestically or for import into the United States of that brand style, notice of such resumption, the date of such resumption, the identity of such brand style (by the common or usual name of the marijuana product category to which it belongs and by any proprietary name), and the other information required by paragraph (1), unless the registrant has previously reported such resumption to the Administrator pursuant to this subparagraph.

• (D) Any material change in any information previously submitted pursuant to this paragraph or paragraph (1).
  
   o (i) Electronic Registration.-- A registration under subsection (b), (c), (d), or (e) (including the submission of updated information) shall be submitted to the Administrator by electronic means, unless the Administrator grants a request for a waiver of such requirement because the use of electronic means is not reasonable for the person requesting such waiver.

• SEC. 110. EFFECTIVE DATE. Except as otherwise specifically provided, this Act shall be effective on the date of enactment of this Act.

• TITLE II--RESTRICTIONS ON YOUTH ACCESS TO MARIJUANA PRODUCTS AND EXPOSURE OF YOUTH TO MARIJUANA PRODUCT MARKETING AND ADVERTISING

• SEC. 201. PROHIBITIONS ON YOUTH TARGETING. Effective 12 months after the date of enactment of this Act, no person shall engage in any of the following activities or practices in the advertising, promotion, or marketing of any marijuana product:
  
   o (1)

   The use, or causing the use, of any cartoon in the advertising, promoting, packaging, or labeling of any marijuana product.

   o (2)

   The use, or causing the use, of any human image in the advertising, promoting, packaging, or labeling of any marijuana product, except for the following:
(A) The use, or continued use, in advertising, promoting, marketing, packaging, or labeling of any human image appearing on a marijuana product package before December 31, 2013.

(B) The use, or continued use, of a human image in the advertising, promoting, or marketing of a marijuana product, if conducted solely in an adult-only facility or facilities.

(C) The use, or continued use, of a human image in a marijuana product communication means directed solely to persons that the marijuana product manufacturer has a good-faith belief are age-verified adults.

(3) The advertising of marijuana products in any magazine or newspaper intended for distribution to the general public.

(4) The engaging in any brand name sponsorship in the United States, other than a brand name sponsorship occurring solely in an adult-only facility or facilities.

(5) The engaging in any brand name sponsorship of any event in the United States in which any paid participants or contestants are youth.

(6) The sponsoring of any athletic event between opposing teams in any sport, male or female

(7) The securing of a right, by agreement, to name any stadium or arena located within the United States with a brand name; or

(B) otherwise causing a stadium or arena located within the United States to be named with a brand name.

(8) The securing of a right by agreement pursuant to which payment is made or other consideration is provided to use a brand name in association with any sport league, or any team involved in any such league.
(9) The use of, or causing the use of, by agreement requiring the payment of money or other consideration, a brand name with any nationally recognized or nationally established trade name or brand designation of any non-marijuana item or service, or any nationally recognized or nationally established sports team, entertainment group or individual celebrity for purposes of advertising, except for an agreement between or among persons that enter into such agreement for the sole purpose of avoiding infringement claims.

(10) The license, express authorization, or otherwise causing of any person to use or advertise within the United States any brand name in a manner that--

- (A) does not pertain to a marijuana product; or
- (B) causes that person to use the brand name to advertise, promote, package or label, distribute, or sell any product or service that is not a marijuana product.

(11) The marketing, distribution, offering, selling, licensing, or authorizing of, or the causing to be marketed, distributed, offered, sold, licensed, or authorized, any apparel or other merchandise bearing a brand name, except--

- (A) apparel or other merchandise that is used by individuals representing a marijuana product manufacturer within an adult-only facility and that is not distributed, by sale or otherwise, to any member of the general public;
- (B) apparel or merchandise provided to an adult employee of a marijuana product manufacturer for use by such employee;
- (C) items or materials used to hold or display marijuana products at retail;
- (D) items or materials the sole function of which is to advertise marijuana products;
- (E) written or electronic publications;
- (F) coupons or other items used by adults solely in connection with the purchase of marijuana products;
- (G) that the composition, structure, form, or appearance of any marijuana product, package, label, or labeling shall not be affected by the prohibitions of this paragraph; and
- (H) that no person shall be required to retrieve, collect, or otherwise recover any item or material that was marketed, distributed, offered, sold, licensed, or caused to be marketed, distributed, offered, sold, or licensed by such person;
(12) The distribution, or causing the distribution, of any free sample domestically, except in an adult-only facility or facilities to individuals who are age-verified adults.

(13) The making of, or causing to be made, any payment or the payment of, or causing to be paid, any other consideration to any other person to use, display, make reference to, or use as a prop in any performance medium any marijuana product, marijuana product package, advertisement for a marijuana product, or any other item bearing a brand name. For the purposes of this paragraph, the terms 'performance medium' and 'performance media' mean any motion picture, television show, theatrical production or other live performance, live or recorded performance of music, commercial film or video, or video game. This paragraph shall not apply to the following:

- (A) Performance media for which the audience or viewers are within 1 or more adult-only facilities, if such performance media are not audible or visible to persons outside such adult-only facility or facilities.
- (B) Performance media not intended to be heard or viewed by the general public.
- (C) Instructional performance media that concern marijuana products and their use, and that are intended to be heard or viewed only by, or provided only to, age-verified adults.
- (D) Performance media used in marijuana product communications to age-verified adults.

(14) Engaging in outdoor advertising or transit advertisements of marijuana products within the United States, except for the following:

- (A) Advertising that is within an adult-only facility.
- (B) The use of outdoor advertising for purposes of identification of an adult-only facility, to the extent that such outdoor advertising is placed at the site, premises, or location of the adult-only facility.
- (C) The use of outdoor advertising in identifying a brand name sponsorship at an adult-only facility, if such outdoor advertising--
  - (i) is placed at the site, premises, or location of the adult-only facility where such brand name sponsorship will occur no more than 30 days before the start of the initial sponsored event; and
  - (ii) is removed within 10 days after the end of the last sponsored event.
(15) The distribution or sale domestically of any package or other container of cigarettes containing fewer than 20 cigarettes.

(16) The advertising of marijuana products on any broadcast, cable, or satellite transmission to a television or radio receiver, or other medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, except electronic communications--

- (A) contained on log-in or home pages containing no marijuana product advertising other than brand name identification;
- (B) in an adult-only facility or facilities;
- (C) through the Internet or other individual user-accessible electronic communication means, including websites accessible using the Internet, if the advertiser takes reasonable action to restrict access to individuals who are adults by--
  - (i) requiring individuals accessing such electronic communications to be age-verified adults; and
  - (ii) making good-faith efforts to verify that such individuals are adults.

(17) The distribution or sale of marijuana products directly to consumers by mail or courier, unless the person receiving purchase requests for marijuana products takes reasonable action to prevent delivery to individuals who are not adults by--

- (A) requiring that the addressees of the marijuana products be age-verified adults;
- (B) making good faith efforts to verify that such addressees are adults; and
- (C) addressing the marijuana products delivered by mail, courier or common carrier to a physical address and not a post office box.

(18) The providing of any gift of a non- marijuana product, except matches, in connection with the purchase of a marijuana product.

(19) The engaging in the sponsorship or promotion, or causing the sponsorship or promotion, of any consumer sweepstakes, contest, drawing, or similar activity resulting in the award of a prize in connection with advertising.
(20) The offering, promoting, conducting, or authorizing, or causing to be offered, promoted, conducted, or authorized, any consumer sweepstakes, drawing, contest, or other activity resulting in the awarding of a prize, based on redemption of a proof-of-purchase, coupon, or other item awarded as a result of the purchase or use of a marijuana product.

(21) The making of, or causing to be made, any payment or the payment of, or causing to be paid, any other consideration, to any other person with regard to the display or placement of any cigarettes, or any advertising for cigarettes, in any retail establishment that is not an adult-only facility.

• SEC. 202. STATE LAW REGARDING SALE OF MARIJUANA PRODUCTS TO INDIVIDUALS UNDER AGE OF 21. Section 1926 of the Public Health Service Act is amended by adding at the end the following:

  '(e) Elements of State Distribution Law.--
  
  '(1) IN GENERAL.--
  
  Subject to paragraphs (2) and (3), for fiscal year 2013 and each subsequent fiscal year, the Secretary shall reduce, as provided for in subsection (h), the amount of any grant under section 1921 for any State that does not have in effect a law with substantially the following provisions:

  'Sec. 'SECTION 1. DISTRIBUTION TO MINORS.

  '(a) No person shall distribute a marijuana product to an individual under 21 years of age or a different minimum age established under State law. A person who violates this subsection shall be liable for a civil money penalty of not less than $1,000 for each violation of this subsection.

  '(b) The employer of an employee who has violated subsection (a) twice while in the employ of such employer shall be liable for a civil money penalty of $1,000 for each subsequent violation by such employee.

  '(c) It shall be a defense to a charge brought under subsection (a) that--

  '(1) the defendant--
o 'Sec. ’(A)
relied upon proof of age that appeared on its face to be valid in accordance with the Federal Marijuana Act of 2013 (carving out this limited, rebuttable defense);

o 'Sec. ’(B)
had complied with the requirements of section 5 and, if applicable, section 7; or

o 'Sec. ’(C)
relied upon a commercially available electronic age verification service to confirm that the person was an age-verified adult; or

o 'Sec. ’(2)
the individual to whom the marijuana product was distributed was at the time of the distribution used in violation of subsection 8(b).

o 'Sec. 'SEC.
  • 2. PURCHASE, RECEIPT, OR POSSESSION BY MINORS PROHIBITED.

o 'Sec. ’(a)
An individual under 21 years of age or a different minimum age established under State law shall not purchase or attempt to purchase, receive or attempt to receive, possess or attempt to possess, a marijuana product. An individual who violates this subsection shall be liable for a civil money penalty of not less than $850 for each such violation, and shall be required to perform not less than 4 hours of community service. Upon the second or each subsequent violation of this subsection, such individual shall be required to perform not less than 8 hours of community service. The monetary penalty for the second infraction will be discretionary for the judge so long as it is not less than $850.

o 'Sec. ’(b)
A law enforcement agency, upon determining that an individual under 21 years of age or a different minimum age established under State law allegedly purchased, received, possessed, or attempted to purchase, receive, or possess, a marijuana product in violation of subsection (a) shall notify the individual's parent or parents, custodian, or guardian as to the nature of the alleged violation if the name and address of a parent or parents, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the individual who allegedly violated subsection (a) is cited by such agency for the violation. The notice may be made by any means reasonably calculated to give prompt actual notice, including notice in person, by telephone, or by first-class mail.
Subsection (a) shall not be construed to prohibit an individual under 18 years of age or a different minimum age established under State law from possessing a marijuana product during regular working hours and in the course of such individual's employment if the marijuana product is not possessed for such individual's consumption.

3. OUT-OF-PACKAGE DISTRIBUTION. It shall be unlawful for any person to distribute cigarettes or a marijuana product other than in an unopened package that complies in full with section 108 of the Federal Marijuana Act of 2013. A person who distributes a cigarette or a marijuana product in violation of this section shall be liable for a civil money penalty of not less than $25 nor more than $500 for each such violation.

4. SIGNAGE. It shall be unlawful for any person who sells marijuana products over-the-counter to fail to post conspicuously on the premises where such person sells marijuana products over-the-counter a sign communicating that--

the sale of marijuana products to individuals under 21 years of age or a different minimum age established under State law is prohibited by law;

the purchase of marijuana products by individuals under 21 years of age or a different minimum age established under State law is prohibited by law; and

proof of age may be demanded before marijuana products are sold.

A person who fails to post a sign that complies fully with this section shall be liable for a civil money penalty of not less than $250 nor more than $500.

5. NOTIFICATION OF EMPLOYEES.

Not later than 180 days of the effective date of this Act, a person engaged in the business of selling marijuana products at retail shall implement a program to notify each employee employed by that person who sells marijuana products at retail that--

the sale or other distribution of marijuana products to any individual under 21 years of age or a different minimum age established under State law, and the purchase, receipt, or
possession of marijuana products in a place open to the public by any individual under 21 years of age or a different minimum age established under State law, is prohibited; and

- 'Sec. '(2)
  
  out-of-package distribution of cigarettes and marijuana products is prohibited.

- Any employer failing to provide the required notice to any employee shall be liable for a civil money penalty of not less than $250 nor more than $500 for each such violation.

- 'Sec. '(b)

  It shall be a defense to a charge that an employer violated subsection (a) that the employee acknowledged receipt, either in writing or by electronic means, prior to the alleged violation, of a statement in substantially the following form: 'I understand that State law prohibits the distribution of marijuana products to individuals under 21 years of age or a different minimum age established under State law and out-of-package distribution of cigarettes and smokeless marijuana products, and permits a defense based on evidence that a prospective purchaser's proof of age was reasonably relied upon and appeared on its face to be valid. I understand that if I sell, give, or voluntarily provide a marijuana product to an individual under 21 years of age or a different minimum age established under State law, I may be found responsible for a civil money penalty of not less than $250 nor more than $500 for each violation. I promise to comply with this law'.

- 'Sec. '(c)

  If an employer is charged with a violation of subsection (a) and the employer uses as a defense to such charge the defense provided by subsection (b), the employer shall be deemed to be liable for such violation if such employer pays the penalty imposed on the employee involved in such violation or in any way reimburses the employee for such penalty.

- 'Sec. 'SEC.
  
  6. SELF-SERVICE DISPLAYS.

- 'Sec. '(a)

  It shall be unlawful for any person who sells marijuana products over-the-counter at retail to maintain packages of such products in any location accessible to customers that is not under the control of a cashier or other employee during regular business hours. This subsection shall not apply to any adult-only facility.

- 'Sec. '(b)

  Any person who violates subsection (a) shall be liable for a civil money penalty of not less than $250 nor more than $500 for each such violation, except that no person shall be responsible for more than one violation per day at any one retail store.
"Sec. 'SEC."

- 7. DISTRIBUTION BY MAIL OR COURIER.

- 'Sec. '(a)

  It shall be unlawful to distribute or sell marijuana products directly to consumers by mail or courier, unless the person receiving such purchase requests for marijuana products takes reasonable action to prevent delivery to individuals who are not adults by--

- 'Sec. '(1)

  requiring that addressees of the marijuana products be age-verified adults;

- 'Sec. '(2)

  making good faith efforts to verify that such addressees have attained the minimum age for purchase of marijuana products established by the respective States wherein the addresses of the addressees are located; and

- 'Sec. '(3)

  addressing the marijuana products delivered by mail or courier to a physical addresses and not to post office boxes.

- 'Sec. '(b)

  Any person who violates subsection (a) shall be liable for a civil money penalty of not less than $250 nor more than $500 for each such violation.

"Sec. 'SEC."

- 8. RANDOM UNANNOUNCED INSPECTIONS; REPORTING; AND COMPLIANCE.

- 'Sec. '(a)

  The State Police, or a local law enforcement authority duly designated by the State Police, shall enforce this Act in a manner that can reasonably be expected to reduce the extent to which marijuana products are distributed to individuals under 21 years of age or a different minimum age established under State law and shall conduct random, unannounced inspections in accordance with the procedures set forth in this Act and in regulations issued under section 1926 of the Public Health Service Act.

- 'Sec. '(b)

  The State may engage an individual under 21 years of age or a different minimum age established under State law to test compliance with this Act, except that such an individual may be used to test compliance with this Act only if the testing is conducted under the following conditions:
o 'Sec. '(1)

Prior to the use of any individual under 21 years of age or a different minimum age established under State law in a random, unannounced inspection, written consent shall be obtained from a parent, custodian, or guardian of such individual.

o 'Sec. '(2)

An individual under 21 years of age or a different minimum age established under State law shall act solely under the supervision and direction of the State Police or a local law enforcement authority duly designated by the State Police during a random, unannounced inspection.

o 'Sec. '(3)

An individual under 21 years of age or a different minimum age established under State law used in random, unannounced inspections shall not be used in any such inspection at a store in which such individual is a regular customer.

o 'Sec. '(4)

If an individual under 21 years of age or a different minimum age established under State law participating in random, unannounced inspections is questioned during such an inspection about such individual's age, such individual shall state his or her actual age and shall present a true and correct proof of age if requested at any time during the inspection to present it.

o 'Sec. '(c)

Any person who uses any individual under 21 years of age or a different minimum age established under State law, other than as permitted by subsection (b), to test compliance with this Act, shall be liable for a civil money penalty of not less than $250 nor more than $500 for each such violation.

o 'Sec. '(d)

Civil money penalties collected for violations of this Act and fees collected under section 9 shall be used only to defray the costs of administration and enforcement of this Act.

o 'Sec. 'SEC.

- 9. LICENSURE.

o 'Sec. '(a)

Each person engaged in the over-the-counter distribution at retail of marijuana products shall hold a license issued under this section. A separate license shall be required for each place of business where marijuana products are distributed at retail. A license issued under this section is not assignable and is valid only for the person in whose name it is issued and for the place of business designated in the license.
"Sec. '(b)"

The annual license fee is $700 for each place of business where marijuana products are distributed at retail.

"Sec. '(c)"

Every application for a license, including renewal of a license, under this section shall be made upon a form provided by the Marijuana Regulatory Agency, and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business for which the license is to be issued, the street address to which all notices relevant to the license are to be sent (in this Act referred to as 'notice address'), and any other identifying information that the Marijuana Regulatory Agency may require.

"Sec. '(d)"

The Marijuana Regulatory Agency shall issue or renew a license or deny an application for a license or the renewal of a license within 30 days of receiving a properly completed application and the license fee. The Marijuana Regulatory Agency shall provide notice to an applicant of action on an application denying the issuance of a license or refusing to renew a license.

"Sec. '(e)"

Every license issued by the Marijuana Regulatory Agency pursuant to this section shall be valid for 1 year from the date of issuance and shall be renewed upon application except as otherwise provided in this Act.

"Sec. '(f)"

Upon notification of a change of address for a place of business for which a license has been issued, a license shall be reissued for the new address without the filing of a new application.

"Sec. '(g)"

The Marijuana Regulatory Agency shall notify every person in the State who is engaged in the distribution at retail of marijuana products of the license requirements of this section and of the date by which such person should have obtained a license.

"Sec. '(h)"

1. Except as provided in paragraph (2), any person who engages in the distribution at retail of marijuana products without a license required by this section shall be liable for a civil money penalty in an amount equal to--

"Sec. '(A)"

2 times the applicable license fee; and
• 'Sec. '(B)

$100 for each day that such distribution continues without a license.

• 'Sec. '(2)

Any person who engages in the distribution at retail of marijuana products after a license issued under this section has been suspended or revoked is liable for a civil money penalty of $300 per day for each day on which such distribution continues after the date such person received notice of such suspension or revocation.

• 'Sec. '(i)

No person shall engage in the distribution at retail of marijuana products on or after 180 days after the date of enactment this Act unless such person is authorized to do so by a license issued pursuant to this section or is an employee or agent of a person that has been issued such a license.

• 'Sec. 'SEC.

• 10. SUSPENSION, REVOCATION, DENIAL, AND NONRENEWAL OF LICENSES.

• 'Sec. '(a)

Upon a finding that a licensee has been determined by a court of competent jurisdiction to have violated this Act during the license term, the State shall notify the licensee in writing, served personally or by registered mail at the notice address, that any subsequent violation of this Act at the same place of business may result in an administrative action to suspend the license for a period determined by the Marijuana Regulatory Agency.

• 'Sec. '(b)

Upon finding that a further violation by this Act has occurred involving the same place of business for which the license was issued and the licensee has been served notice once under subsection (a), the Marijuana Regulatory Agency may initiate an administrative action to suspend the license for a period to be determined by the Marijuana Regulatory Agency but not to exceed 6 months. If an administrative action to suspend a license is initiated, the Marijuana Regulatory Agency shall immediately notify the licensee in writing at the notice address of the initiation of the action and the reasons therefor and permit the licensee an opportunity, at least 30 days after written notice is served personally or by registered mail upon the licensee, to show why suspension of the license would be unwarranted or unjust.

• 'Sec. '(c)

The Marijuana Regulatory Agency may initiate an administrative action to revoke a license that previously has been suspended under subsection (b) if, after the suspension and during the 1-year period for which the license was issued, the licensee committed a further violation of this Act, at the same place of business for which the license was
issued. If an administrative action to revoke a license is initiated, the Marijuana Regulatory Agency shall immediately notify the licensee in writing at the notice address of the initiation of the action and the reasons therefore and permit the licensee an opportunity, at least 30 days after written notice is served personally or by registered mail upon the licensee, to show why revocation of the license would be unwarranted or unjust.

- 'Sec. '(d)

A person whose license has been suspended or revoked with respect to a place of business pursuant to this section shall pay a fee of $100 for the renewal or reissuance of the license at that same place of business, in addition to any applicable annual license fees.

- 'Sec. '(e)

Revocation of a license under subsection (c) with respect to a place of business shall not be grounds to deny an application by any person for a new license with respect to such place of business for more than 12 months subsequent to the date of such revocation. Revocation or suspension of a license with respect to a particular place of business shall not be grounds to deny an application for a new license, to refuse to renew a license, or to revoke or suspend an existing license at any other place of business.

- 'Sec. '(f)

A licensee may seek judicial review of an action of the Marijuana Regulatory Agency suspending, revoking, denying, or refusing to renew a license under this section by filing a complaint in a court of competent jurisdiction. Any such complaint shall be filed within 30 days after the date on which notice of the action is received by the licensee. The court shall review the evidence de novo.

- 'Sec. '(g)

The State shall not report any action suspending, revoking, denying, or refusing to renew a license under this section to the Secretary of Health and Human Services, unless the opportunity for judicial review of the action pursuant to subsection (f), if any, has been exhausted or the time for seeking such judicial review has expired.

- 'Sec. 'SEC.
  - 11. NO PRIVATE RIGHT OF ACTION. 'Sec. 'Nothing in this Act shall be construed to create a right of action by any private person for any violation of any provision of this Act.

- 'Sec. 'SEC.
  - 12. JURISDICTION AND VENUE. 'Sec. 'Any action alleging a violation of this Act may be brought only in a court of general jurisdiction in the city or county where the violation is alleged to have occurred.
o 'Sec. 'SEC.
  • 13. REPORT. 'Sec. 'The Marijuana Regulatory Agency shall prepare for submission annually to the Secretary of Health and Human Services the report required by section 1926 of the Public Health Service Act.

o 'Sec. 'SEC.
  • 14. DEFINITIONS. 'Sec. 'For purposes of this Act:

  o 'Sec. '(1)
  The term 'adult-only facility' shall mean a facility or restricted area, whether open-air or enclosed, where the operator ensures, or has a reasonable basis to believe, that no youth is present. A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility.

  o 'Sec. '(2)
  The term 'age-verified adult' shall mean any individual who is an adult and;
  (a) has presented proof of age identifying the individual and verifying that the individual is an adult; or
  (b) whose status can be searched by a commercially available database.

  o 'Sec. '(3)
  The term 'package' means a pack, box, or container of any kind or, if not a container, any wrapping (including cellophane), in which a marijuana product or products are offered for sale, sold, or otherwise distributed to consumers, and includes cartons in which packages of marijuana products are contained for sale, offer for sale, or otherwise distributed to consumers.

  o 'Sec. '(4)
  The term 'proof of age' shall mean driver’s license or other form of indemnification that is issued by a government authority and includes a photograph and date of birth of that person.

  o 'Sec. '(5)
  The term 'sample' shall mean marijuana products that are distributed to members of the public at no cost for the purpose of promoting the product

  o 'Sec. '(6)
  The term 'marijuana product' shall have the meaning given such term in section 3 of the Federal Marijuana Act of 2013.

  o 'Sec. '(7)
  The term 'under the control' means within the reach of the cashier or other employee, or otherwise protected by security, surveillance, or detection methods, including electronic
scanners, such that the marijuana product cannot be purchased except in a face-to-face transaction.'.

• '(2) APPLICATION TO CERTAIN STATES.--

In the case of a State whose legislature does not convene a regular session in fiscal year 2013, and in the case of a State whose legislature does not convene a regular session in fiscal year 2013, the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921 shall apply only for fiscal year 2013 and subsequent fiscal years.

• '(3) LIMITATION.--

Paragraph (1) shall not affect any State or local law that--

  • '(A) was in effect on the date of enactment of the Federal Marijuana Act of 2013; and

  • '(B) covers the same subject matter as the law described in paragraph (1).

Any State law that meets the conditions of this paragraph shall also be deemed to meet the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921, if such State law is at least as stringent as the law described in paragraph (1).

  o '(f) Enforcing of State Law.--

    • '(1) IN GENERAL.--

      For the first applicable fiscal year and for each subsequent fiscal year, a funding agreement for a grant under section 1921 is a funding agreement under which the State involved will enforce the law described in subsection (e)(1) in a manner that can reasonably be expected to reduce the extent to which marijuana products are available to individuals under the age of 18 or a different minimum age established under State law for the purchase of marijuana products.

    • '(2) REQUIREMENTS.--

      For the first applicable fiscal year and for each subsequent fiscal year, a funding agreement for a grant under 1921 is a funding agreement under which the State involved will--

        • '(A) conduct random, unannounced inspections to ensure compliance with the law described in subsection (e)(1); and

        • '(B) annually submit to the Secretary a report describing--

          • '(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

          • '(ii) the extent of success the State has achieved in reducing the availability of marijuana products to individuals under 18 years of age or a different
minimum age established under State law, including the results of the inspections conducted under subparagraph (A); and

- '(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

- '(g) Funding Sources.-- The law specified in subsection (e)(1) may be administered and enforced by a State using--

  - '(1) any amounts made available to the State through a grant under section 1921;

  - '(2) any amounts made available to the State under section 1901;

  - '(3) any fees collected for licenses issued pursuant to the law described in subsection (e)(1);

  - '(4) any fines or penalties assessed for violations of the law specified in subsection (e)(1); or

  - '(5) any other funding source that the legislature of the State may prescribe by law.

- '(h) Compliance Determinations.-- Prior to making a grant under section 1921 to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (e) and (f). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under section 1921 for the State for the fiscal year involved by an amount equal to--

  - '(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 1933 for the State for the fiscal year;

  - '(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 1933 for the State for the fiscal year;
• '(3)
  in the case of the second such fiscal year, 30 percent of the amount determined under section 1933 for the State for the fiscal year; and

• ' (4)
  in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 1933 for the State for the fiscal year.

The Secretary may not grant to any State a waiver of the terms and requirements of this subsection or subsection (e) or (f).

  o ' (i) Definition.-- For the purposes of subsections (e) through (h), the term 'first applicable fiscal year' means--

    • ' (1)
      fiscal year 2014, in the case of any State described in subsection (e)(2); and

    • ' (2)
      fiscal year 2013, in the case of any other State.

  o ' (j) References.-- For purposes of subsections (e) through (h), references to section 1921 shall include any successor grant programs to the programs established under section 1921.

  o ' (k) Indians.--

    • ' (1) IN GENERAL.--
      As required by paragraph (2), and subject to paragraph (5), an Indian tribe shall satisfy the requirements of subsection (e)(1) by enacting a law or ordinance with substantially the same provisions as the law described in subsection (e)(1).

    • ' (2) COMPLIANCE.--
      An Indian tribe shall comply with subsection (e)(1) within 180 days after the Administrator finds, in accordance with this paragraph, that--

        • ' (A) the Indian tribe has a governing body carrying out substantial governmental powers and duties;

        • ' (B) the functions to be exercised by the Indian tribe under this subsection pertain to activities on trust land within the jurisdiction of the tribe; and

        • ' (C) the Indian tribe is reasonably expected to be capable of carrying out the functions required under this section.

Not later than 2 years of the date of enactment of the Federal Marijuana Act of 2013, with respect to each Indian tribe in the United States, the Administrator shall make the findings
contemplated by this paragraph or determine that such findings cannot be made, in accordance with the procedures specified in paragraph (5).

- '(3) REGULATIONS.--
  With respect to an Indian tribe that is subject to subsection (e)(1), the Administrator shall promulgate regulations that--
  - '(A) provide whether and to what extent if any, the law described in subsection (e)(1) may be modified as adopted by Indian tribes; and
  - '(B) ensure, to the extent possible, that each Indian tribe's retailer licensing program under subsection (e)(1) is no less stringent than the program of the State or States in which the Indian tribe is located.

- '(4) NONCOMPLIANCE.--
  If with respect to any Indian tribe the Administrator determines that compliance with the requirements of subsection (e)(1) is inappropriate or administratively infeasible, the Administrator shall specify other means for the Indian tribe to achieve the purposes of the law described in subsection (e)(1) with respect to persons who engage in the distribution at retail of marijuana products on tribal lands.

- '(5) PROCEDURES.--
  The findings and regulations promulgated under paragraphs (2) and (3) shall be promulgated in conformance with the United States Code, and shall comply with the following provisions:
  - '(A) In making findings as provided in paragraph (2), and in drafting and promulgating regulations as provided in paragraph (3) (including drafting and promulgating any revised regulations), the Administrator shall confer with, and allow for active participation by, representatives and members of Indian tribes, and tribal organizations.
  - '(B) In carrying out rulemaking processes under this subsection, the Administrator shall follow the guidance of subchapter III of chapter 5 of title 5, United States Code, commonly known as the Negotiated Rulemaking Act of 1990.
  - '(C) The tribal participants in the negotiation process referred to in subparagraph (B) shall be nominated by and shall represent the groups described in this subsection and shall include tribal representatives from all geographic regions.
  - '(D) The negotiations conducted under this paragraph shall be conducted in a timely manner.
  - '(E) If the Administrator determines that an extension of the deadlines under subsection (k)(1) is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.
(6) LIMITATION.--

This subsection shall not affect any law or ordinance that--

- '(A) was in effect on tribal lands on Federal Marijuana Act of 2013; and
- '(B) covers the same subject matter as the law described in subsection (e)(1).

Any law or ordinance that meets the conditions of this paragraph shall also be deemed to meet the requirement described in subsection (k)(1), if such law or ordinance is at least as stringent as the law described in subsection (e)(1).

SEC. 203. RESTRICTIONS ON DESCRIPTORS USED IN MARKETING OF CIGARETTES.

(a) In General.-- Except as provided in subsection (b), no person shall use, with respect to any cigarette brand style commercially distributed domestically, on the portion of the package of such cigarette brand style that customarily is visible to consumers before purchase, or in advertising of such cigarette brand style that is not located in an adult-only facility or is not addressed solely to age-verified adults any of the following as a descriptor of any cigarette brand style:

1. The name of any candy or fruit.

2. The word 'candy', 'citrus', 'cream', 'fruit', 'sugar', 'sweet', 'tangy', 'high' or 'tart'.

3. Any extension or variation of any of the words 'candy', 'citrus', 'cream', 'fruit', 'sugar', 'sweet', 'tangy', 'high' or 'tart', including 'creamy', or 'fruity.'

(b) Limitation.-- Subsection (a) shall not apply to the use of the following words or to any extension or variation of any such words: 'weed' and 'cannabis'.

(c) Scented Materials.-- No person shall use, in the advertising or labeling of any cigarette commercially distributed domestically, any scented materials, except in an adult-only facility.

TITLE III-- REDUCED-EXPOSURE AND REDUCED-RISK CLAIMS FOR MARIJUANA PRODUCTS, AND RANKING OF MARIJUANA PRODUCT CATEGORIES

SEC. 301. PROHIBITION OF UNAPPROVED REDUCED-EXPOSURE AND REDUCED-RISK CLAIMS.

(a) Prohibition of Unapproved Reduced-Exposure and Reduced-Risk Claims.-- No person shall make, or cause to be made, in any marijuana product labeling or advertising, a statement or other representation regarding a marijuana product that is likely to be received and understood by a significant number of objective, reasonable consumers as making either a reduced-exposure claim or a reduced-risk claim, unless an application
regarding such claim with respect to such marijuana product has been approved in accordance with this title and has not been withdrawn in accordance with this title. Nothing in this Act shall be construed to restrict--

- (1) the full exchange of scientific information concerning a marijuana product, including the dissemination of scientific findings in scientific and lay media;
- (2) communications with employees, contractors, or suppliers;
- (3) communications to a governmental entity, body, official, or employee;
- (4) communications in, or in connection with, litigation or arbitration; or
- (5) communications to securities holders.

Nothing in this Act shall be construed to restrict--

- (1) the full exchange of scientific information concerning a marijuana product, including the dissemination of scientific findings in scientific and lay media;
- (2) communications with employees, contractors, or suppliers;
- (3) communications to a governmental entity, body, official, or employee;
- (4) communications in, or in connection with, litigation or arbitration; or
- (5) communications to securities holders.

No liability under State law shall be imposed on the basis, wholly or in part, of any statement or representation making a reduced-exposure claim or a reduced-risk claim in a scientific or lay medium of communication (other than advertising in such medium) or otherwise within the scope of paragraphs (1) through (5).

- (b) Marijuana Products With No Reduced-Exposure or Reduced-Risk Claim Unaffected. Nothing in this section shall be construed to prevent any person from introducing into interstate commerce any marijuana product the labeling and advertising of which do not make any statement or other representation prohibited by subsection (a).

- (c) Tetrahydrocannabinol-Replacement Therapies.-- A product that is intended to be used as part of a Tetrahydrocannabinol replacement therapy in the treatment of marijuana dependence, or as part of a marijuana product cessation program, shall not be considered to be either--

  - (1) a marijuana product for which a reduced-exposure claim might be made; or
  - (2) a marijuana product for which a reduced-risk claim might be made.

**SEC. 302. APPLICATIONS FOR APPROVAL OF REDUCED-EXPOSURE AND REDUCED-RISK CLAIMS.** A person may submit to the Administrator an application for approval of a reduced-exposure claim or a reduced-risk claim for a marijuana product as
compared to 1 or more other reference products either within the marijuana product category that includes the subject marijuana product or in a marijuana product category that does not include the subject marijuana product. Such an application shall contain the following:

- (1)
  A complete description, including the formulation, construction, and a full list of the components, of the marijuana product for which the proposed reduced-exposure claim or reduced-risk claim might be made.

- (2)
  The proposed reduced-exposure or reduced-risk claim or claims for that marijuana product.

- (3)
  Full reports of investigations of the subject marijuana product, as compared to 1 or more other marijuana products, with respect to:
  - (A) the chemical compositions of the marijuana products (or of the smoke of the marijuana product if the subject marijuana product is intended for smoking);
  - (B) the toxicological and any other biological effects of the marijuana products (or of the smoke of the marijuana product if the subject marijuana product is intended for smoking) in laboratory test systems, animals, and humans; and
  - (C) human behavior in the use of the marijuana products; and

- (4)
  Such samples of the marijuana product as the Administrator may request.

**SEC. 303. STANDARDS FOR APPROVAL OF APPLICATIONS FOR REduced-EXPOSURE OR REduced-RISK CLAIMS.**

- (a) Standards for Approval of Reduced-Exposure Claims.-- The Administrator shall approve an application submitted under section 302 for a reduced-exposure claim, as originally submitted or as modified, if the Administrator finds each of the following:
  - (1)
    That the subject marijuana product (or the smoke from the subject marijuana product, if the subject marijuana product is intended for smoking, when evaluated under not more than 2 machine-smoking regimens), yields a reduced amount of 1 or more toxicants when compared to an appropriate reference marijuana product or products.
  - (2)
    That the subject marijuana product, when evaluated under conditions of actual use by marijuana-product users, presents a reduced exposure to 1 or more toxicants when
compared to an appropriate reference marijuana product or products, as demonstrated by--

- (A) data on smoking behavior or other behavior in the use of the marijuana product, as applicable, by users of the marijuana product;

- (B) data showing a statistically significant reduction of at least 1 toxicant biomarker, or other scientifically validated indicator of toxicant exposure; and

- (C) data showing either--
  - (i) no statistically significant increase in exposure to any toxicant or in any biomarker of toxicant exposure; or
  - (ii) that any statistically significant increase in exposure to any toxicant or in any toxicant biomarker of exposure does not pose a significant risk of increasing morbidity or mortality of users of the marijuana product.

- (3) That there is a sufficiently persuasive scientific rationale to justify a reasonable expectation, among qualified experts, that the reduction in exposure to 1 or more toxicants would result in a meaningful reduction of morbidity or mortality, as supported by--

  - (A) biologically meaningful quantitative risk assessment data;

  - (B) biologically meaningful pre-clinical toxicology data; or

  - (C) biologically meaningful data from short-term studies in users of marijuana products.

- (4) That there is a sufficiently persuasive scientific rationale to justify a reasonable expectation, among qualified experts, that use of the subject marijuana product by marijuana product users would not result in a statistically significant increase in biological activity when compared to an appropriate reference marijuana product or products, as supported by--

  - (A) biologically meaningful quantitative risk assessment data;

  - (B) biologically meaningful pre-clinical toxicology data; or

  - (C) biologically meaningful data from short-term studies in users of marijuana products.

- (b) Standards for Approval of Reduced-Risk Claims.-- The Administrator shall approve an application submitted under section 302 for a reduced-risk claim, as originally submitted or as modified, if the Administrator makes each of the findings required by
paragraphs (1) through (4) of subsection (a) and finds that an epidemiologic study or other human studies lead to significant scientific agreement that--

- (1)
  - (A)
    
    the totality of available scientific evidence warrants the conclusion that the subject marijuana product, when compared to an appropriate reference marijuana product or products, provides a meaningful reduction of 1 or more chronic diseases or serious adverse health conditions associated with marijuana use; or
  
  - (B)
    
    the totality of the available scientific evidence shows--
    
    - (i) that actual use of the subject marijuana product by users of marijuana products, as compared to actual use of an appropriate reference marijuana product or products by users of marijuana products, results in an altered intake of an appropriately identified and measured substance; and
    
    - (ii) that the change in intake from the use of the subject marijuana product results in a meaningful reduction in a valid measure of chronic disease or serious adverse health condition associated with marijuana use; and

- (2)

  the validity of the anticipated reduction in 1 or more marijuana-related diseases or adverse health conditions is not likely to be reversed by new and evolving science.

**SEC. 304. GENERAL PROVISIONS.**

- (a) Confidentiality of Applications.-- The Administrator shall treat the content of all applications submitted under section 302 as confidential.

- (b) Referral to Advisory Committee.-- The Administrator may refer an application submitted under section 302 to an Advisory Committee having expertise in 1 or more of the fields of biological science, medicine, statistics, or other discipline relevant to the review of the application.

- (c) Action on an Application.--

  - (1) IN GENERAL.--

    Not later than 180 days after the receipt of an application under section 302, or such additional period as may be agreed upon by the Administrator and the applicant, after consultation with appropriate technical experts of the Food and Drug Administration, the Federal Trade Commission, and the Centers for Disease Control and Prevention, the Administrator shall--

    - (A) approve the application as initially submitted or as modified; or
• (B) refuse to approve the application as initially submitted or as modified, provide a detailed written statement of the reasons for such refusal, and give the applicant notice of an opportunity for a hearing on the record before the Administrator on the question whether such application is approvable.

• (2) HEARING ON DISAPPROVAL.--

If an applicant accepts the opportunity for a hearing under paragraph (1)(B) by written request submitted not later than 30 days after notice of such opportunity is received by the applicant, such hearing shall commence not later than 90 days after the expiration of such 30-day period unless the Administrator and the applicant otherwise agree. Any such hearing shall thereafter be conducted on an expedited basis, and the Administrator's order thereon shall be issued not later than 90 days after the date fixed by the Administrator for the filing of final briefs or for the final hearing.

  o (d) Post-Market Surveillance and Studies.-- The Administrator shall require that an applicant under this title whose application has been approved conduct post-market surveillance and studies of the marijuana product that is the subject of the approved application, unless the Administrator finds that the information likely to result from such surveillance or studies is not likely to be useful for the protection of the public health.

  o (e) Withdrawal of Approval.-- The Administrator, after due notice and an opportunity for a hearing on the record before the Administrator, shall withdraw the approval of an application under this title if the Administrator determines that--

  • (1)

  new evidence not contained in such application or not available to the Administrator until after such application was approved, or evidence from tests by new methods, or tests by methods not deemed reasonably applicable when such application was approved, evaluated together with the evidence available to the Administrator when the application was approved, demonstrates that there is a lack of adequate support for the findings necessary for the approval of the application;

  • (2)

  the applicant knowingly or recklessly failed to include material information in the application, or the application included any untrue statement of material fact by the applicant; or

  • (3)

  the applicant failed to conduct, or to submit reports on, post-market surveillance or studies as required under this section.
(f) Judicial Review.--

- (1) IN GENERAL.--
  
  An applicant may appeal an order of the Administrator refusing or withdrawing approval of an application under this title in accordance with this subsection.

- (2) FILING.--
  
  An appeal under this subsection shall be make by filing in the United States court of appeals for the circuit wherein the applicant resides or wherein the principal place of business of such applicant is located, or in the United States Court of Appeals for the District of Columbia Circuit, not later than 60 days after the date on which such order was entered, a written petition seeking that the order of the Administrator be set aside. A copy of such petition shall be transmitted forthwith by the clerk of the court to the Administrator, or any officer designated by the Administrator for that purpose, and thereupon the Administrator shall certify and file in the court the record upon which the order complained of was entered, as provided in the United States Code.

- (3) JURISDICTION.--
  
  Upon the filing of a petition under paragraph (2), the court involved shall have exclusive jurisdiction to affirm or set aside the order that is the subject of the petition, except that until the filing of the record the Administrator may modify or set aside the order that is being appealed.

- (4) ADMINISTRATIVE PROVISIONS.--
  
  No objection to the order of the Administrator shall be considered by the court under this subsection unless such objection shall have been urged before the Administrator or unless there were reasonable grounds for failure so to do. The findings of the Administrator as to the facts, if supported by substantial evidence, shall be conclusive. If any person shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence to be taken before the Administrator and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Administrator may modify his or her findings as to the facts by reason of the additional evidence so taken, and the Administrator shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and the Administrator's recommendation, if any, for the setting aside of the original order.

- (5) JUDGMENT.--
  
  The judgment of the court affirming or setting aside any order of the Administrator under this subsection shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided for in the United States Code.
• (6) LIMITATION.--

The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Administrator's order.

o (g) Regulations.-- Not later than 24 months after the effective date of this Act, the Administrator shall promulgate regulations governing, among other things--

• (1)
  the content of an application under section 302;

• (2)
  the procedures for amending or supplementing such an application;

• (3)
  the procedures for the Administrator to approve, approve with modifications, or refuse to approve applications submitted under section 302;

• (4)
  the design of, conduct of, recordkeeping on, and reporting on post-market surveillance and studies under this section; and

• (5)
  post-approval reporting by holders of approved applications.

o (h) Limitation.-- Nothing in this Act shall be construed to require a marijuana product manufacturer to investigate, evaluate, develop, or pursue the marketing of any marijuana product for which a reduced-exposure claim or a reduced-risk claim might be made. Except as otherwise provided in this section, nothing in this Act shall be construed to require a marijuana product manufacturer to supply any information, data, or technology to the Administrator regarding the development or properties of any marijuana product for which a reduced-exposure claim or reduced-risk claim might be made.

• SEC. 305. ESTABLISHMENT OF RANKINGS.

o (a) Standards and Procedures for Rankings.-- Not later than 24 months after the effective date of this Act, the Administrator shall, by regulation and after consultation with an Advisory Committee established for such purpose, establish the standards and procedures for promulgating rankings, comprehensible to consumers of marijuana products, of the following categories of marijuana products and tetrahydrocannabinol-containing products on the basis of the relative risks of serious or chronic marijuana-related diseases and adverse health conditions those categories of marijuana products and tetrahydrocannabinol-containing products respectively present:
• (1)
  Cigarettes.
• (2)
  Loose marijuana for roll-your-own marijuana products.
• (3)
  Little cigars.
• (4)
  Cigars.
• (5)
  Pipe marijuana.
• (6)
  Dry marijuana.
• (7)
  Other forms of marijuana products, including pelletized marijuana and compressed marijuana, treated collectively as a single category.
• (8)
  Other tetrahydrocannabinol-containing products, treated collectively as a single category.

The Administrator shall not have authority or discretion to establish a relative-risk ranking of any category or subcategory of marijuana products or any category or subcategory of tetrahydrocannabinol-containing products other than the categories specified in paragraphs (1) through (8).

o (b) Considerations in Promulgating Regulations.-- In promulgating regulations under this section, the Administrator--
  • (1)
    shall take into account relevant epidemiologic studies and other relevant competent and reliable scientific evidence; and
  • (2)
    shall, in assessing the risks of serious or chronic marijuana-related diseases and adverse health conditions presented by a particular category, consider the range of marijuana products or tetrahydrocannabinol-containing products within the category,
and give appropriate weight to the market shares of the respective products in the category.

- (c) Promulgation of Rankings of Categories.-- Once the initial regulations required by subsection (a) are in effect, the Administrator shall promptly, by order, after notice and an opportunity for comment, promulgate to the general public rankings of the categories of marijuana products and tetrahydrocannabinol-containing products in accordance with such regulations. The Administrator shall promulgate the initial rankings of those categories of marijuana products and tetrahydrocannabinol-containing products to the general public not later than January 1, 2014. Thereafter, on an annual basis, the Administrator shall, by order, promulgate to the general public updated rankings that--

- (1)
  are in accordance with such regulations; and

- (2)
  reflect the scientific evidence available at the time of promulgation.

The Administrator shall open and maintain an ongoing public docket for receipt of data and other information submitted by any person with respect to such annual promulgation of rankings.

- **SEC. 306. COMPULSORY LICENSING.**

- (a) Grant of License.-- A person that owns intellectual property rights to any technology that is the basis for the approval of a reduced-risk claim for a brand style of cigarettes or form of marijuana under section 304(c) shall, to the fullest extent of such rights, license to any licensee any and all such rights to the technology that are needed to make, use, and sell in the United States cigarettes incorporating such technology, if the licensee--

- (1)
  is incorporated within the United States;

- (2)
  requests such a license; and

- (3)
  agrees to commercially reasonable terms, including payment of a commercially reasonable fee, which fee shall take into account the costs of development and testing, as well as the value, of any associated intellectual property rights or protection.

- (b) Binding Arbitration.-- The parties shall submit to binding arbitration any dispute regarding the terms of a license provided under subsection (a).
(c) Limitation on License.-- This section shall not apply to any technology that is not, in whole or in part, necessary to the approval of a reduced-risk claim for a brand style of cigarettes under section 304(c).

**TITLE IV--DISCLOSURES TO THE AGENCY REGARDING MARIJUANA PRODUCTS**

**SEC. 401. CONFIDENTIAL DISCLOSURES TO THE AGENCY.**

(a) Annual Reports by Manufacturers.-- Not later than September 1, 2013, and each September 1 thereafter, each marijuana product manufacturer shall submit to the Administrator, as to each brand style it manufactures for commercial distribution domestically, a list of the ingredients added to marijuana in the manufacture of that brand style, without regard to the quantity used, and including, separately, each spice, each natural or artificial flavoring, and each preservative used in the brand style. In each such list, each ingredient shall be listed by its chemical name and chemical abstract service registry number, if available, or, if not available, by its common or usual name. The ingredients shall be listed in descending order of predominance by weight, measure, or numerical count.

(b) Evaluation by the Administrator.--

(1) IN GENERAL.--

At such times as the Administrator considers appropriate, the Administrator shall request that technical experts of the Food and Drug Administration and the Centers for Disease Control and Prevention review and comment on the information provided under subsection (a), with respect to--

(A) a summary of--

(i) current scientific data pertaining to the health effects of the ingredients added to marijuana in the manufacture of marijuana products; and

(ii) any proposed additional research activities on such health effects; and

(B) information pertaining to any such ingredient that in the judgment of technical experts of the Food and Drug Administration or the Centers for Disease Control and Prevention meaningfully increases the health risk or risks presented to users of marijuana products containing such ingredient.

(2) CONFIDENTIAL INFORMATION.--

Except for information required to be disclosed in accordance with any of sections 601 through 603, all information submitted under subsection (a) and provided to technical experts of the Food and Drug Administration or to the Centers for Disease Control and Prevention shall be treated as trade secret or confidential commercial information subject to the United States Code, and shall not be revealed, to any person other than those authorized by the Administrator in carrying out their official duties under this section.
(c) Reports by the Administrator.--

- (1) IN GENERAL.--

At such times as the Administrator considers appropriate, the Administrator shall transmit to the Congress a report, based on the information provided under subsection (a), containing--

- (A) a summary of research activities and proposed research activities on the health effects of ingredients added to marijuana in the manufacture of marijuana products and the findings of such research;

- (B) information pertaining to any such ingredient that in the judgment of the Administrator meaningfully increases the health risk or risks presented to users of marijuana products containing such ingredient, and

- (C) any other information, other than trade secrets and confidential commercial information, the inclusion of which the Administrator determines to be in the public interest.

- (2) CONFIDENTIAL INFORMATION.--

- (A) IN GENERAL.-- Except for information required to be disclosed in accordance with sections 601 through 603, all information provided to the Administrator under paragraph (1) shall be treated as trade secret or confidential commercial information subject to the United States Code, and shall not be revealed, to any person other than those authorized by the Administrator in carrying out their official duties under this section.

- (B) LIMITATION.-- Subparagraph (A) shall not be construed to authorize the withholding of a list provided under subsection (a) from any duly authorized subcommittee or committee of the Congress. If a subcommittee or committee of the Congress requests the Administrator to provide it such a list, the Administrator shall make the list available to the subcommittee or committee and shall, at the same time, notify in writing the marijuana product manufacturer that provided the list of such request.

- (C) PROCEDURES.-- The Administrator shall establish written procedures to assure the confidentiality of information provided under paragraph (1). Such procedures shall include the designation of a duly authorized agent to serve as custodian of such information. The agent shall--

  - (i) take physical possession of the information and, when such information is not in use by a person authorized to have access to it, shall store such information in a locked cabinet or file; and

  - (ii) maintain a complete record of all persons that inspect or use the information.

(d) Inclusion of Tetrahydrocannabinol Yield Ratings of Cigarettes.-- Not later than September 1, 2013, and each September 1 thereafter, each marijuana product
manufacturer of cigarettes shall include in its annual report submitted in accordance with subsection (a), for each brand style of cigarettes it manufactures for commercial distribution domestically, tetrahydrocannabinol yield ratings determined in accordance with the standards established under section 402.

o (e) Inclusion of Tetrahydrocannabinol Information Relating to Smokeless Marijuana Products.-- Not later than September 1, 2013, and each September 1 thereafter, each marijuana product manufacturer of a smokeless marijuana product shall include in its annual report submitted in accordance with subsection (a), for each brand style of smokeless marijuana product it manufactures for commercial distribution domestically, tetrahydrocannabinol information determined in accordance with the standards established under section 403.

• SEC. 402. TETRAHYDROCANNABINOL REPORTING REQUIREMENTS FOR CIGARETTES.

o (a) In General.-- The testing of cigarettes for purposes of this title shall comply with this section.

o (b) Selection of Cigarettes for Testing.-- Cigarettes of each brand style tested shall be randomly selected from cigarette packages obtained from the manufacturing facility of the marijuana product manufacturer.

o (c) Brand Styles Identical in Composition.-- For purposes of this section, if a brand style of cigarettes is identical to 1 or more other brand styles of cigarettes, except for brand name designation and other aspects not affecting the physical or chemical composition or performance of the cigarettes, then, for purposes of this section, those brand styles shall be treated as if they were a single brand style, and the cigarette manufacturer shall be required to test only 1 of those brand styles in lieu of testing all such brand styles. The cigarette manufacturer shall specify in its annual report to the Administrator under section 401(c) the brand styles covered by the results with respect to the brand style tested.

o (d) Machine-Smoking Regimens.--

• (1) REGULATIONS.--

Not later than December 31, 2014, the Administrator shall, by regulation, establish not more than 2 machine-smoking regimens for determining the yield of tetrahydrocannabinol from each brand style of cigarettes manufactured for commercial distribution domestically.

• (2) CONDITIONING.--

Cigarettes to be tested under this subsection shall be conditioned in accordance with ISO 3402:1999, entitled 'Marijuana and marijuana products--Atmosphere for conditioning and testing.'
(3) TESTING TRIALS.--

In establishing either 1 or 2 smoking regimens, the Administrator shall mandate and coordinate interlaboratory, collaborative testing trials to verify the suitability and ruggedness of the smoking regimen or regimens.

(4) MEANINGFUL CHANGE IN TETRAHYDROCANNABINOL YIELD.--

On the basis of the interlaboratory testing trials, the Administrator shall determine, as to each regimen, the magnitude of change in a measured value that constitutes a meaningful change in the tetrahydrocannabinol yield of a cigarette.

(5) TETRAHYDROCANNABINOL YIELD VALUES.--

The regulations promulgated under this subsection shall require that cigarette manufacturers report all tetrahydrocannabinol yield values to a number of decimal places consistent with the established value for a meaningful change in the tetrahydrocannabinol yield of a cigarette and in light of any limitations associated with the smoking regimen.

(6) REQUIREMENT OF REGIMEN.--

One of the 2 smoking regimens for establishing the yield of tetrahydrocannabinol from each brand style of cigarettes shall be the ISO smoking regimen. When testing a brand style with the ISO smoking regimen, 20 channels of 5 cigarettes per channel shall be smoked using a linear smoking machine.

(7) ALTERNATIVE REGIMEN.--

The other regimen, if established by the Administrator, shall be the ISO testing regimen modified as follows:

- (A) Puff volume shall be adjusted to 45 milliliters.
- (B) Puff interval shall be adjusted to 30 seconds.
- (C) Puff duration shall remain 2 seconds.
- (D) 50 percent of the ventilation holes shall be blocked by the design of the cigarette holding device, placement of adhesive tape over 50 percent of the circumference of the cigarette filter to block ventilation holes present, or by another method approved by the Administrator.
- (E) 20 channels of 3 cigarettes per channel shall be smoked using a linear smoking machine.

(e) Aspects of Cigarettes To Be Determined.-- For each brand style of cigarettes that is tested under this section, tetrahydrocannabinol content and other aspects shall be determined as follows:
• (1)
  Total tetrahydrocannabinol content of the cigarette, reported in milligrams of tetrahydrocannabinol, shall be determined using the protocol for measuring tetrahydrocannabinol content in marijuana as described in--
  
  • (A) the rules published on May/June, at pages 258 to 261 of volume 29 of the Journal of Analytical Toxicology (Quantitative GC-MS Analysis of Tetrahydrocannabinol in Fiber Hemp Varieties); or
  
  • (B) the colorimetric technique identified as CORESTA Recommended Method No. 35 (Determination of total alkaloids (as tetrahydrocannabinol) in marijuana by continuous flow analysis).

  In measuring tetrahydrocannabinol content, the cigarette manufacturer shall use the following sampling method: Two cigarettes shall be randomly selected from each pack and conditioned, the marijuana rod split open, and the cigarette marijuana mixed thoroughly before weighing. The minimum sample size shall be 100 grams of marijuana. If the weight of the marijuana is less than 100 grams, sufficient additional cigarettes shall be randomly selected from each pack to achieve the minimum sample size.

• (2)
  Percent filter tip ventilation, defined as the amount of air dilution in the whole smoke provided by the perforations in the cigarette filter, described in percent. Two cigarettes shall be randomly selected from each sampled pack, conditioned, and tested for percent filter ventilation. The average percent filter ventilation shall be computed for a sample of 60 cigarettes obtained in the manner described in subsection (b).

• (3)
  For 3 brand styles of cigarettes selected by the Administrator from each brand family that has a national market share of 3.0 percent or greater, as reported in the most recent (published not later than December 31 of the year preceding the reporting deadline) Maxwell Report.

  o (f) Classification of Tetrahydrocannabinol Yield Ratings.-- Tetrahydrocannabinol yield ratings reported in the annual report in accordance with section 401(a) shall be classified by the cigarette manufacturer on the basis of the larger of the 2 tetrahydrocannabinol yield testing results produced under subsection (d) and in accordance with the following standards:

  • (1)
    'High Tetrahydrocannabinol': cigarettes yielding more than 1.2 milligrams per cigarette.
• (2) 'Moderate Tetrahydrocannabinol': cigarettes yielding more than 0.2 and less than or equal to 1.2 milligrams per cigarette.

• (3) 'Low Tetrahydrocannabinol': cigarettes yielding more than or equal to 0.01 and less than or equal to 0.2 milligrams per cigarette.

• (4) 'Tetrahydrocannabinol Free': cigarettes yielding less than 0.01 milligrams per cigarette.

  o (g) Accredited Laboratory.-- Each test conducted in accordance with this section shall be performed in a laboratory that has been accredited according to the ISO 17025 standard, entitled 'General Requirements for the Competence of Calibration and Testing Laboratories'.

  o (h) Manner of Reporting.-- The Administrator shall, by regulation, specify the manner in which the results of tests conducted under this section shall be reported to the Administrator.

• SEC. 403. TETRAHYDROCANNABINOL REPORTING REQUIREMENTS FOR SMOKELESS MARIJUANA PRODUCTS.

  o (a) Testing of Smokeless Marijuana Products.-- Unless the Administrator approves equivalent or superior testing standards, information developed under this section and to be included in the annual report by a manufacturer of smokeless marijuana products, shall include the following:

    • (1) The pH of the marijuana.

    • (2) The moisture content as a percentage of the dry weight of the marijuana.

    • (3) The tetrahydrocannabinol in milligrams per gram of marijuana.

    • (4) The tetrahydrocannabinol as a percentage of the dry weight of the marijuana.

    • (5) The percentage of un-ionized (free) tetrahydrocannabinol.
• (6)

The total un-ionized (free) tetrahydrocannabinol in milligrams per gram of marijuana.

• (7)

A classification of each brand style of smokeless marijuana products for tetrahydrocannabinol delivery, in accordance with the following standards:

- (A) 'High tetrahydrocannabinol ': smokeless marijuana product yielding more than 2.0 milligrams of total free tetrahydrocannabinol per gram.
- (B) 'Moderate tetrahydrocannabinol ': smokeless marijuana product yielding more than 0.5 and less than or equal to 2.0 milligrams of total free tetrahydrocannabinol per gram.
- (C) 'Low tetrahydrocannabinol ': smokeless marijuana product yielding more than or equal to 0.01 and less than or equal to 0.5 milligrams of total free tetrahydrocannabinol per gram.
- (D) ' tetrahydrocannabinol Free': smokeless marijuana product yielding less than 0.01 milligrams of total free tetrahydrocannabinol per gram.

  o (b) Brand Styles Identical in Composition.-- For purposes of this section, if a brand style of smokeless marijuana is identical to 1 or more other brand styles of smokeless marijuana, except for brand name designation and other aspects not affecting the physical or chemical composition or performance of the smokeless marijuana, then, for purposes of this section, those brand styles shall be treated as if they were a single brand style, and the smokeless marijuana product manufacturer shall be required to test only 1 of those brand styles in lieu of testing all of those brand styles. The smokeless marijuana product manufacturer shall specify in its annual report to the Administrator under section 401(d) the brand styles covered by the results with respect to the brand style tested.

  o (c) Accredited Laboratory.-- Each test conducted in accordance with this section shall be performed in a laboratory that has been accredited according to the ISO 17025 standard, entitled 'General Requirements for the Competence of Calibration and Testing Laboratories'.

• TITLE V-- TAR AND TETRAHYDROCANNABINOL YIELDS
• SEC. 501. DETERMINATION OF TAR AND TETRAHYDROCANNABINOL YIELDS OF CIGARETTES.

  o (a) Machine-Smoking Regimen.-- The testing regimen or regimens and the reporting method established by the Administrator under section 402(c) with respect to the determination and reporting of tetrahydrocannabinol yields shall also be used for the determination and disclosure of tar yields under section 504.

  o (b) Continued Supervision by Federal Trade Commission.-- Prior to the expiration of a reasonable period determined by the Administrator for conducting testing pursuant to the regulations promulgated by the Administrator under section 402(c), but in no event later than December 31, 2009, manufacturers of cigarettes shall continue to disclose the tar
and tetrahydrocannabinol yields of their cigarettes under the supervision of the Federal Trade Commission.

- (c) End of Federal Trade Commission Authority.-- After the period specified under subsection (b), the Federal Trade Commission shall have no authority over the testing or reporting of the tar and tetrahydrocannabinol yields of cigarettes.

- (d) Accredited Laboratory.-- Each test conducted in accordance with this section shall be performed in a laboratory that has been accredited according to the ISO 17025 standard, entitled 'General Requirements for the Competence of Calibration and Testing Laboratories'.

**SEC. 502. CIGARETTE TAR LIMITS.**

- (a) No Increase in Tar Yields.-- No marijuana product manufacturer shall distribute for sale domestically a brand style of cigarettes that generates a tar yield greater than the tar yield of that brand style of cigarettes on Federal Marijuana Act of 2013, as determined by the ISO smoking regimen and its associated tolerances. The tar tolerances for cigarettes with ISO tar yields in the range of 1 to 20 milligrams per cigarette, based on variations arising from sampling procedure, test method, and sampled product, itself, are the greater of plus or minus--
  - (1) 15 percent; or
  - (2) 1 milligram per cigarette.

- (b) Limit on New Cigarettes.-- Beginning on the effective date of this Act, no marijuana product manufacturer shall manufacture for commercial distribution domestically a brand style of cigarettes that--
  - (1) was not in commercial distribution domestically on the effective date of this Act; and
  - (2) generates a tar yield of greater than 20 milligrams per cigarette as determined by the ISO smoking regimen and its associated tolerances.

- (c) Limit on All Cigarettes.-- Beginning on January 1, 2014, no marijuana product manufacturer shall manufacture for commercial distribution domestically a brand style of cigarettes that generates a tar yield greater than 20 milligrams per cigarette as determined by the ISO smoking regimen and its associated tolerances.

- (d) Review by Administrator.-- Beginning on the effective date of this Act, the Administrator shall evaluate the available scientific evidence addressing the potential relationship between historical tar yield values and the risk of harm to smokers. If upon a review of such evidence, and after consultation with technical experts of the Food and
Drug Administration and the Centers for Disease Control and Prevention and notice and an opportunity for public comment, the Administrator determines that a reduction in tar yield may reasonably be expected to provide a meaningful reduction of the risk or risks of harm to smokers, the Administrator shall issue an order that--

- (1)
  
  provides that no cigarette manufacturer shall manufacture for commercial distribution domestically a cigarette that generates a tar yield that exceeds 14 milligrams as determined by the ISO smoking regimen and its associated tolerances; and

- (2)
  
  provides a reasonable time for manufacturers to come into compliance with such prohibition.

- **SEC. 503. PROHIBITION OF SMOKING ARTICLE YIELD TERMS.** Beginning 12 months after the effective date of this Act, no marijuana product manufacturer shall use in packaging, labeling, or advertising of cigarettes any of the following terms: 'low tar', 'medium', 'light', 'mild', 'ultra light', and 'ultra low tar'.

- **SEC. 504. DISCLOSURE OF TAR AND TETRAHYDROCANNABINOL YIELDS OF CIGARETTES.** A marijuana product manufacturer shall include prominently in all advertising for each brand style of cigarettes it manufactures for commercial distribution domestically the ISO tar and tetrahydrocannabinol yields for that brand style, and shall post on an Internet-accessible website, or other location electronically accessible to the public, the ISO tar and tetrahydrocannabinol yields for every brand style of cigarettes it manufactures for commercial distribution domestically.

- **SEC. 505. EVALUATION OF MARIJUANA SMOKE TOXICANTS.** Not later than 24 months after the effective date of this Act, the Administrator shall, after consultation with the Centers for Disease Control and Prevention and the Food and Drug Administration, publish a plan to identify and review constituents known to comprise marijuana smoke with regard to the toxicant potential of each such constituent. Such plan shall consider and prioritize the relative risk of serious or chronic marijuana-related diseases and adverse health conditions that the various smoke constituents might present, taking into account--

  - (1)
    
    all relevant chemical, toxicological, human exposure and epidemiologic studies, and other relevant competent and reliable scientific evidence;

  - (2)
    
    the likelihood that the magnitude of a specific reduction in a smoke constituent may reasonably be expected to reduce the risk of harm to users of the marijuana product;

  - (3)
    
    verification that the magnitude of the specific reduction in a smoke constituent can be achieved by existing agronomic practices, product technology, or manufacturing capability; and
that the magnitude of the specific reduction in a smoke constituent does not significantly reduce consumer acceptance of the marijuana product.

- **TITLE VI-- PUBLIC DISCLOSURES BY MARIJUANA PRODUCT MANUFACTURERS**
- **SEC. 601. DISCLOSURES ON PACKAGES OF SMOKING ARTICLES.**

- (a) Back Face for Required Disclosures.-- For purposes of this section--
  - (1) the principal face of a package of a smoking article is the face that has the largest surface area or, for faces with identical surface areas, any of the faces that have the largest surface area, except that a package shall not be characterized as having more than 2 principal faces;
  - (2) the front face of the package shall be the principal face of the package;
  - (3) if the front and back faces of the package are of different sizes in terms of area, then the larger face shall be the front face;
  - (4) the back face of the package shall be the principal face of a package that is opposite the front face of the package;
  - (5) the entire back face of the package shall be allocated for required package disclosures in accordance with this section; and
  - (6) if the package is cylindrical, a contiguous area constituting 30 percent of the total surface area of the cylinder shall be deemed the back face.
  - (7) if the marijuana is sold in a “shop”, all it is the duty of the shop to place all warnings and information of the marijuana in clear view for the patron.

- (b) Front Face and Panels Available to Manufacturer.-- The front face and the side, top, and bottom panels of a package of a smoking article shall be available solely to a manufacturer (including a repackager) for identification of a marijuana product, in accordance with this Act, and for other matter as determined by the manufacturer, and
shall not be available for any disclosure that the Administrator requires a manufacturer to make.

- (c) Required Information on Back Face.-- Not later than 24 months after the effective date of this Act, the back face of a package of a smoking article shall be available solely for disclosures required by or under this Act, the Federal Cigarette Labeling and Advertising Act and any other Federal law. Such disclosures shall include--
  
  - (1) the printed name and address of the manufacturer, packer, or distributor, and any other identification associated with the manufacturer, packer, or distributor or with the marijuana product that the Administrator may require;
  
  - (2) 1 statutorily mandated warning label as required by section 4 of the Federal Cigarette Labeling and Advertising Act;
  
  - (3) a list of ingredients as required by subsection (e); and
  
  - (4) the appropriate tax registration number.

- (d) Amendment of Federal Cigarette Labeling and Advertising Act., which shall apply within the Federal Marijuana Act of 2013.-- Section 4(b)(1) of the Federal Cigarette Labeling and Advertising Act is amended to read as follows:
  
  - '(b)
    
  - (1) Each label statement required under paragraph (1) of subsection (a) shall be located on the back face of a package of cigarettes in accordance with section 601 of the Federal Tobacco Act of 2009. The phrase 'Surgeon General's Warning' shall appear in capital letters, and the size of all other letters in the label shall be the same size as the size of such letters on the date of introduction of the Federal Tobacco Act of 2009. All letters in the label shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed matter on the package.'.

- (e) Package Disclosure of Ingredients.-- Not later than 24 months after the effective date of this Act, the package of a smoking article shall bear a list of the common or usual names of the ingredients present in the smoking article in an amount greater than 0.1 percent of the total dry weight of the marijuana product (including all ingredients), that shall comply with the following:
  
  - (1) Such listing of ingredients shall appear under, or be conspicuously accompanied by, the heading 'Marijuana and principal marijuana ingredients'.

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Marijuana may be listed as 'Marijuana,' and shall be the first listed ingredient.

After marijuana, the ingredients shall be listed in descending order of predominance, by weight.

Spices and natural and artificial flavors may be listed, respectively, as 'spices' and 'natural and artificial flavors' without naming each.

Preservatives may be listed as 'preservatives' without naming each.

The disclosure of any ingredient in accordance with this section may, at the option of the marijuana product manufacturer, designate the functionality or purpose of that ingredient.

**SEC. 602. PUBLIC DISCLOSURE OF INGREDIENTS.**

- (a) Regulations.-- Not later than 24 months after the effective date of this Act, the Administrator shall, by regulation, establish standards under which each marijuana product manufacturer shall disclose publicly, and update at least annually--
  
  - (1) a list of the ingredients it uses in each brand style it manufactures for commercial distribution domestically, as provided for in subsection (b); and
  
  - (2) a composite list of all the ingredients it uses in any of the brand styles it manufactures for commercial distribution domestically, as provided for in subsection (c).

- (b) Ingredients To Be Disclosed as to Each Brand Style.--
  
  - (1) IN GENERAL.--
    
    With respect to the public disclosure required by subsection (a)(1), as to each brand style, the marijuana product manufacture shall disclose the common or usual name of each ingredient present in the brand style in an amount greater than 0.1 percent of the total dry weight of the marijuana (including all ingredients).

  - (2) REQUIREMENTS.--
    
    Disclosure under paragraph (1) shall comply with the following:
• (A) Marijuana may be listed as 'marijuana,' and shall be the first listed ingredient.

• (B) After marijuana, the ingredients shall be listed in descending order of predominance, by weight.

• (C) Spices and natural and artificial flavors may be listed, respectively, as 'spices' and 'natural and artificial flavors' without naming each.

• (D) Preservatives may be listed as 'preservatives' without naming each.

• (E) The disclosure of any ingredient in accordance with this section may, at the option of the marijuana product manufacturer, designate the functionality or purpose of that ingredient.

  o (c) Aggregate Disclosure of Ingredients.--

    • (1) IN GENERAL.--
    
    The public disclosure required of a marijuana product manufacturer under subsection (a)(2) shall consist of a single list of all ingredients used in any brand style that a marijuana product manufacturer manufactures for commercial distribution domestically, without regard to the quantity used, and including, separately, each spice, each natural or artificial flavoring, and each preservative.

    • (2) LISTING.--
    
    The ingredients shall be listed by their respective common or usual names in descending order of predominance by the total weight used annually by the marijuana product manufacturer in manufacturing marijuana products for commercial distribution domestically.

  o (d) Required Disclosure of Quantities.-- The Administrator shall require public disclosure of quantitative information about any ingredient in a marijuana product.

  o (e) Disclosure on Website.-- The public disclosures required by subsection (a) may be made by posting on an Internet-accessible website, or other location electronically accessible to the public, which is identified on all packages of a marijuana product manufacturer's marijuana products.

  o (f) Timing of Initial Required Disclosures.-- No disclosure pursuant to this section shall be required to commence until the regulations under subsection (a) have been in effect for not less than 1 year.

• SEC. 603. CIGARETTE LABEL AND ADVERTISING WARNINGS. Beginning 12 months after the enactment of this bill, all manufactures shall place warnings of the severe health implications of smoking or otherwise consuming marijuana. It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any marijuana package of which fails to bear one of the following labels:

  o Marijuana smoke can harm you children
  o Smoking during pregnancy can harm your baby
- Smoking can kill you
- Smoking causes serious risk to your health
- Quitting smoking now greatly reduces serious risks to your health

**TITLE VII--ENFORCEMENT PROVISIONS**

**SEC. 701. PROHIBITED ACTS.** The following acts and the causing thereof are hereby prohibited:

- **(1)**
  The introduction or delivery for introduction into interstate commerce of any marijuana product that is adulterated or misbranded.

- **(2)**
  The adulteration or misbranding of any marijuana product in interstate commerce.

- **(3)**
  The receipt in interstate commerce of any marijuana product that is known to be adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

- **(4)**
  The failure to establish or maintain any record, or make any report or other submission, or to provide any notice required by or under this Act, or the refusal to permit access to, verification of, or copying of any record as required by this Act.

- **(5)**
  The refusal to permit entry or inspection as authorized by this Act.

- **(6)**
  The making to the Administrator of a statement, report, certification, or other submission required by this Act, with knowledge that such statement, report, certification, or other submission is false in a material aspect.

- **(7)**
  The manufacturing, shipping, receiving, storing, selling, distributing, possession, or use of any marijuana product with knowledge that it is an illicit marijuana product.

- **(8)**
  The forging, simulating without proper permission, falsely representing, or without proper authority using any brand name.

- **(9)**
  The using by any person to his or her own advantage, or revealing, other than to the Administrator or officers or employees of the Agency, or to the courts when relevant in
any judicial proceeding under this Act, any information acquired under authority of this Act concerning any item which as a trade secret is entitled to protection, except that this paragraph shall not authorize the withholding of information from the House of Representatives or the Senate or from, to the extent of matter within its jurisdiction, any committee or subcommittee of such committee or any joint committee of Congress or any subcommittee of such joint committee.

- (10)
  The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a marijuana product, if such act is done while such marijuana product is held for sale (whether or not the first sale) after shipment in interstate commerce, and results in such marijuana product being adulterated or misbranded.

- (11)
  The importation of any marijuana product that is adulterated, misbranded, or otherwise not in compliance with this Act.

- (12)
  The commission of any act prohibited by section 201.

**SEC. 702. INJUNCTION PROCEEDINGS.**

- (a) Jurisdiction.-- The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of this Act, except for violations of section 701(11).

- (b) Type of Trial.-- In case of an alleged violation of an injunction or restraining order issued under this section, which also constitutes a violation of this Act, trial shall be by the court, or upon demand of the defendant, by a jury.

**SEC. 703. PENALTIES.**

- (a) Violations of Section 701.-- Any person who willfully violates a provision of section 701 shall be imprisoned for not more than 1 year, or fined not more than $50,000, or both.

- (b) Civil Penalties for Violation of Section 803.--
  * (1) IN GENERAL.--

    Any person who knowingly distributes or sells, other than through retail sale or retail offer for sale, any cigarette brand style in violation of section 803(a)--

    - (A) for a first offense shall be liable for a civil penalty not to exceed $20,000 for each distribution or sale; or

    - (B) for a second offense shall be liable for a civil penalty not to exceed $40,000 for each distribution or sale;
except that the penalty imposed under this paragraph against any person with respect to violations during any 30-day period shall not exceed $100,000.

• (2) RETAILERS.--

Any retailer who knowingly distributes, sells, or offers for sale any cigarette brand style in violation of section 803(a) shall--

- (A) for a first offense for each sale or offer for sale of cigarettes, if the total number of packages of cigarettes sold or offered for sale--
  - (i) does not exceed 50 packages of cigarettes, be liable for a civil penalty not to exceed $500 for each sale or offer for sale; and
  - (ii) exceeds 50 packages of cigarettes, be liable for a civil penalty not to exceed $1,000 for each sale or offer for sale;

- (B) for each subsequent offense for each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale--
  - (i) does not exceed 50 packages of cigarettes, be liable for a civil penalty not to exceed $2,000 for each sale or offer for sale; and
  - (ii) exceeds 50 packages of cigarettes, be liable for a civil penalty not to exceed $5,000 for each sale or offer for sale;

•  **SEC. 704. SEIZURE.**

  o  (a) Articles Subject to Seizure.--

   - (1) IN GENERAL.--

   Any marijuana product that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of this Act, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the marijuana product is found.

   - (2) LIMITATION.--

   No libel for condemnation shall be instituted under this Act for any alleged misbranding if there is pending in any court a libel for condemnation proceeding under this Act based upon the same alleged misbranding, and not more than 1 such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply--

   - (A) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this Act; or
(B) when the Administrator has probable cause to believe from facts found, without hearing, by the Administrator or any officer or employee of the Agency that the misbranded marijuana product is dangerous to health beyond the inherent danger to health posed by marijuana, or that the labeling of the misbranded marijuana product is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer.

In any case in which the number of libel for condemnation proceedings is limited as provided for in this paragraph, the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.

(3) LIST.--

The following shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States within the jurisdiction of which they are found:

- (A) Any marijuana product that is an illicit marijuana product.
- (B) Any container of an illicit marijuana product.
- (C) Any equipment or thing used in making an illicit marijuana product.
- (D) Any adulterated or misbranded marijuana product.

(4) LIMITATION.--

- (A) IN GENERAL.-- Except as provided in subparagraph (B), no libel for condemnation may be instituted under this subsection against any marijuana product that--
  - (i) is misbranded under this Act because of its advertising; and
  - (ii) is being held for sale to the ultimate consumer in an establishment other than an establishment owned or operated by a manufacturer, packer, or distributor of the marijuana product.

- (B) EXCEPTION.-- A libel for condemnation may be instituted under this subsection against a marijuana product described in subparagraph (A) if the marijuana product's advertising which resulted in the marijuana product being misbranded was disseminated in the establishment in which the marijuana product is being held for sale to the ultimate consumer--
• (i) such advertising was disseminated by, or under the direction of, the owner or operator of such establishment; or
• (ii) all or part of the cost of such advertising was paid by such owner or operator.

  (b) Procedures.--

  • (1) IN GENERAL.--

  The marijuana product, equipment, or other thing proceeded against under this section shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, to the maximum extent practicable, to the procedure in admiralty, except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

  • (2) CONSOLIDATION.--

  • (A) IN GENERAL.-- When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in 2 or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in--

  • (i) any district selected by the claimant where one of such proceedings is pending; or

  • (ii) a district agreed upon by stipulation between the parties.

  • (B) APPLICATION FOR CONSOLIDATION.-- If no order for consolidation is made under subparagraph (A) within a reasonable time, the claimant may apply to the court of one such jurisdiction and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

  (c) Samples and Analyses.-- The court at any time after seizure under this section up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, or the party's attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.
o  (d) Disposition of Condemned Marijuana Products.--

- (1) DESTRUCTION OR SALE.--

  ▪ (A) IN GENERAL.-- Any marijuana product condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct, and the proceeds thereof, if sold (less the legal costs and charges), shall be paid into the Treasury of the United States. Such marijuana product shall not be sold under such decree contrary to the provisions of this Act or the laws of the jurisdiction in which sold.

  ▪ (B) SUPERVISION.-- After entry of the decree under subparagraph (A) and upon the payment of the costs of the proceedings and the execution of a good and sufficient bond conditioned on such article not being sold or disposed of contrary to the provisions of this Act or the laws of any State in which sold, the court may by order direct that such marijuana product be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act, under the supervision of an officer or employee duly designated by the Administrator. The expenses of such supervision shall be paid by the person obtaining release of the marijuana product under bond.

  ▪ (C) IMPORTED PRODUCTS.-- If the marijuana product involved in a condemnation under this paragraph was imported into the United States and the person seeking its release establishes--

    ▪ (i) that the adulteration, misbranding, or violation did not occur after the marijuana product was imported; and

    ▪ (ii) that the person seeking the release of the marijuana product had no cause for believing that it was adulterated, misbranded, or in violation before it was released from customs custody;

- (2) APPLICATION TO EQUIPMENT.--

  The provisions of paragraph (1) shall, to the extent deemed appropriate by the court, apply to any equipment or other thing that is not otherwise within the scope of such paragraph and which is referred to in paragraph (3) of subsection (a).

- (3) REMISSION OR MITIGATION.--

  Whenever in any proceeding under this section, involving paragraph (3) of subsection (a), the condemnation of any equipment or thing (other than a marijuana product) is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court--

  ▪ (A) that such claimant has not caused the equipment or thing to be within 1 of the categories referred to in such paragraph (3) and has no interest in any marijuana product referred to in such paragraph;
• (B) that such claimant has an interest in such equipment or other thing as owner or lienor or otherwise, acquired by such claimant in good faith; and

• (C) that such claimant at no time had any knowledge or reason to believe that such equipment or other thing was being or would be used in, or to facilitate, the violation of laws of the United States relating to any illicit marijuana product.

o (e) Costs and Fees.-- When a decree of condemnation is entered against the marijuana product or other article under this section, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the marijuana product or other article.

o (f) Removal for Trial.-- In the case of removal for trial of any case as provided for by subsection (a) or (b)--

• (1)

the clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction; and

• (2)

the court to which such case was removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.

o (g) Administrative Detention of Marijuana Products.--

• (1) DETENTION AUTHORITY.--

• (A) IN GENERAL.-- An officer or qualified employee of the Agency may order the detention, in accordance with this subsection, of any marijuana product that is found during an inspection, examination, or investigation under this Act conducted by such officer or qualified employee, if the officer or qualified employee has credible evidence or information indicating that such article presents a threat of serious adverse health consequences beyond those normally inherent in the use of marijuana products.

• (B) Administrator'S APPROVAL.-- A marijuana product or component thereof may be ordered detained under subparagraph (A) only if the Administrator or an official designated by the Administrator approves the order. An official may not be so designated unless the official is an officer with supervisory responsibility for the inspection, examination, or investigation that led to the order.
• (2) PERIOD OF DETENTION.--

A marijuana product may be detained under paragraph (1) for a reasonable period, not to exceed 20 days, unless a greater period, not to exceed 30 days, is necessary, to institute an action under subsection (a) or section 702.

• (3) SECURITY OF DETAINED MARIJUANA PRODUCT.--

An order under paragraph (1) may require that the marijuana product to be detained be labeled or marked as detained, and shall require that the marijuana product be maintained in or removed to a secure facility, as appropriate. A marijuana product subject to such an order shall not be transferred by any person from the place at which the marijuana product is ordered detained, or from the place to which the marijuana product is so removed, as the case may be, until released by the Administrator or until the expiration of the detention period applicable under such order, whichever occurs first. This paragraph shall not be construed as authorizing the delivery of the marijuana product pursuant to the execution of a bond while the marijuana product is subject to the order, and section 709 shall not be construed to authorize the delivery of the marijuana product pursuant to the execution of a bond while the article is subject to the order.

• (4) APPEAL OF DETENTION ORDER.--

  ▪ (A) IN GENERAL.-- With respect to a marijuana product ordered detained under paragraph (1), any person that would be entitled to be a claimant of such marijuana product if the marijuana product were seized under subsection (a) may appeal the detention order to the Administrator. Within 5 days after such an appeal is filed, the Administrator, after providing opportunity for an informal hearing, shall confirm or terminate the order involved, and such confirmation by the Administrator shall be considered a final agency action for purposes of United States Code. If during such 5-day period the Administrator fails to provide such an opportunity, or to confirm or terminate such order, the order is deemed to be terminated.

  ▪ (B) EFFECT OF INSTITUTING COURT ACTION.-- The process under subparagraph (A) for the appeal of an order under paragraph (1) shall terminate if the Administrator institutes an action under subsection (a) or section 702 regarding the marijuana product involved.

• SEC. 705. REPORT OF MINOR VIOLATIONS. Nothing in this Act shall be construed as requiring the Administrator to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this Act whenever the Administrator believes that the public interest will be adequately served by a suitable written notice or warning.
• **SEC. 706. INSPECTION.**
  
  o (a) Authority To Inspect.--
    
    - (1) IN GENERAL.--
      
      The Administrator shall have the power to inspect the premises of a marijuana product manufacturer for purposes of determining compliance with this Act, or the regulations promulgated under this Act.
    
    - (2) ENTRY OF PREMISES.--
      
      Officers of the Agency designated by the Administrator, upon presenting appropriate credentials and a written notice to the person in charge of the premises involved, are authorized to enter, at reasonable times, without a search warrant, any factory, warehouse, or other establishment in which marijuana products are manufactured, processed, packaged, or held for domestic distribution.
    
    - (3) REASONABLE LIMITS AND MANNER.--
      
      An inspection under this subsection shall be conducted within reasonable limits and in a reasonable manner, and shall be limited to examining only those things, including records, relevant to determining whether violations of this Act, or regulations under this Act, have occurred.
    
    - (4) LIMITATION.--
      
      No inspection under this section shall extend to financial data, sales data other than shipment data, pricing data, personnel data (other than data as to qualifications of technical and professional personnel performing functions subject to this Act), or research data. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.
  
  o (b) Report of Observations.-- Prior to leaving the premises, the officer of the Agency who has supervised or conducted the inspection shall give to the person in charge of the premises a report in writing setting forth any conditions or practices that appear to manifest a violation of this Act, or the regulations under this Act.
  
  o (c) Samples.-- If an officer has obtained any sample in the course of an inspection under this section, prior to leaving the premises such officer shall give to the person in charge of the premises a receipt describing the samples obtained. As to each such sample obtained, the officer shall furnish promptly to the person in charge of the premises a copy of the sample and of any analysis made upon the sample.

• **SEC. 707. EFFECT OF COMPLIANCE.** Compliance with the provisions of this Act, and the regulations promulgated under this Act, shall constitute a complete defense to any civil action, including relating to any product liability action, that seeks to recover damages, whether compensatory or punitive, based upon an alleged defect in the labeling or advertising of any marijuana product distributed for sale domestically.
• SEC. 708. IMPORTS.

  o (a) Imports; List of Registered Foreign Establishments; Samples From Unregistered Foreign Establishments; Examination and Refusal of Admission.--

  • (1) IN GENERAL.--

  The Secretary of Homeland Security shall deliver to the Administrator, upon request by the Administrator, samples of marijuana products that are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony.

  • (2) LIST OF ESTABLISHMENTS AND SAMPLES.--

  The Administrator shall furnish to the Secretary of Homeland Security a list of establishments registered pursuant to subsection (d) of section 109, and shall request that, if any marijuana products manufactured, prepared, or processed in an establishment not so registered are imported or offered for import into the United States, samples of such marijuana products be delivered to the Administrator, with notice of such delivery to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony.

  • (3) EXAMINATIONS AND REFUSAL.--

  If it appears from the examination of samples delivered under this subsection or otherwise that--

  ▪ (A) such marijuana product is forbidden or restricted in sale in the country in which it was produced or from which it was exported; or

  ▪ (B) such marijuana product is adulterated, misbranded, or otherwise in violation of this Act;

  then such marijuana product shall be refused admission, except as provided in subsection (b).

  • (4) DESTRUCTION.--

  The Secretary of Homeland Security shall cause the destruction of any such marijuana product refused admission under this subsection unless such marijuana product is exported, under regulations prescribed by the Secretary of Homeland Security, within 90 days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations.

  o (b) Disposition of Refused Marijuana Products.--

  • (1) IN GENERAL.--

  Pending a decision as to the admission of a marijuana product being imported or offered for import, the Secretary of Homeland Security may authorize the delivery of
such marijuana product to the owner or consignee upon the execution by such owner or consignee of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of Homeland Security.

- **(2) ACTIONS FOR COMPLIANCE.--**

  If it appears to the Administrator that a marijuana product that is refused admission under subsection (a)(3) may, by relabeling or other action, be brought into compliance with this Act or rendered other than a marijuana product, a final determination as to admission of such marijuana product may be deferred and, upon filing of timely written application by the owner or consignee and the execution by such owner or consignee of a bond as provided in paragraph (1), the Administrator may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected marijuana products or portions thereof, as may be specified in the Administrator's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Agency designated by the Administrator, or an officer or employee of the Department of Homeland Security designated by the Secretary of Homeland Security.

  - **(c) Charges Concerning Refused Marijuana Products.--** All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) and the supervision of the relabeling or other action authorized under the provisions of subsection (b), the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any marijuana product refused admission under subsection (a), shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

- **SEC. 709. MARIJUANA PRODUCTS FOR EXPORT.**

  - **(a) Exemption for Marijuana Products Exported.--** Except as provided in subsection (b), a marijuana product intended for export shall be exempt from this Act if--

    - **(1)**

      it is not in conflict with the laws of the country to which it is intended for export, as demonstrated by--

      - **(A) a document issued by the government of that country; or**

      - **(B) a document provided by a person knowledgeable with respect to the relevant laws of that country and qualified by training and experience to make determinations as to whether the marijuana product is or is not in conflict with such laws;**
(2) it is labeled on the outside of the shipping package that it is intended for export; and

(3) the particular units of marijuana product intended for export have not been sold or offered for sale in domestic commerce.

• (b) Products for United States Armed Forces Overseas.-- A marijuana product intended for export shall not be exempt from this Act if it is intended for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

• (c) Limitation.-- This Act shall not apply to a person that manufactures or distributes marijuana products solely for export under subsection (a), except to the extent such marijuana products are subject to subsection (b).

• TITLE VIII-- MISCELLANEOUS PROVISIONS
• SEC. 801. USER FEES.

• (a) Assessment of User Fees.-- The Administrator shall assess an annual user fee for each fiscal year, beginning with fiscal year 2010, determined in accordance with this section, upon each marijuana product manufacturer (including each importer) that is subject to this Act.

• (b) Use of User Fees.-- The Administrator shall make user fees collected pursuant to this section available to pay, in each fiscal year, for the costs of the activities of the Agency related to the regulation of marijuana products under this Act.

• (c) Amounts of User Fees.--

• (1) LIMITATION.--

Except as provided in paragraph (2), the total amount of the user fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to pay for the costs of the activities described in subsection (b) for the fiscal year involved.

• (2) AMOUNTS.--

The total amount of the assessments under this section--

• (A) for fiscal year 2014 shall not exceed $100,000,000; and

• (B) for each subsequent fiscal year, shall not exceed the limitation on the assessment imposed during the preceding fiscal year, as adjusted by the Administrator (after notice, published in the Federal Register) to reflect the greater of--

• (i) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month
period ending on June 30 preceding the fiscal year for which the fee amounts are being established; or

- (ii) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with the United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

- (3) NOTIFICATION.--

The Administrator shall notify each marijuana product manufacturer subject to this section of the amount of the annual assessment imposed on such marijuana product manufacturer under subsection (d). Such notifications shall occur not later than the July 31 prior to the beginning of the fiscal year for which such assessment is being made, and payments of all assessments shall be made not later than 60 days after the date of each such notification. Such notification shall contain a complete list of the assessments imposed on marijuana product manufacturers for that fiscal year.

- (d) Liability of Marijuana Product Manufacturers for User Fees.--

- (1) DETERMINATION.--

The user fee to be paid by each marijuana product manufacturer for a fiscal year shall be determined by multiplying--

- (A) such marijuana product manufacturer's market share of marijuana products, as determined under regulations issued pursuant to subsection (e); by

- (B) the total user fee assessment for such fiscal year, as determined under subsection (c).

- (2) LIMITATION.--

Except as provided in paragraph (3), no marijuana product manufacturer shall be required to pay a percentage of a total annual user fee for all marijuana product manufacturers that exceeds the market share of such manufacturer.

- (3) FAILURE TO PAY.--

If--

- (A) a marijuana product manufacturer fails to pay the user fee in full by the due date;

- (B) the Administrator, after diligent inquiry, concludes that such manufacturer is unlikely to make such payment in full by the time such payment will be needed by the Administrator; and

- (C) the Administrator and the Department of Justice make diligent efforts to obtain payment in full from such marijuana product manufacturer;
the Administrator may re-allocate the unpaid amount owed by that marijuana product manufacturer to the other marijuana product manufacturers on the basis of their respective market shares. If the Administrator makes such re-allocation, the Administrator shall set a reasonable time, not less than 60 days from the date of notice of the amount due, for payment of that amount by such manufacturers. If and to the extent that the Administrator ultimately receives from that marijuana product manufacturer or any successor to such marijuana product manufacturer any payment of the previously unpaid user fee amount, the Administrator shall credit such payment to the marijuana product manufacturers that made payments of any such re-allocated amount, in proportion to their respective payments of such amount.

- (e) Regulations.-- Not later than 12 months after the date of enactment of this Act, the Administrator shall, by regulation, establish a system for determining the market shares of marijuana products for each marijuana product manufacturer subject to this section. In promulgating regulations under this subsection, the Administrator shall--
  • (1) take into account the differences between categories and subcategories of marijuana products in terms of sales, manner of unit packaging, and any other factors relevant to the calculation of market share for a marijuana product manufacturer;
  • (2) take into account that different marijuana product manufacturers rely to varying degrees on the sales of different categories and subcategories of marijuana products; and
  • (3) provide that the market share of marijuana products for each marijuana product manufacturer shall be recalculated on an annual basis.

**SEC. 803. FIRE SAFETY STANDARDS FOR CIGARETTES.**

- (a) Prohibition.-- Beginning on January 1, 2012, no person shall distribute, sell, or offer for sale domestically any brand style of cigarettes unless--
  • (1) cigarettes of that brand style randomly sampled from a manufacturing facility of the marijuana product manufacturer have been tested in accordance with subsection (b);
  • (2) not more than 25 percent of the cigarettes of that brand style tested in a complete test in accordance with subsection (b) exhibit full-length burns; and
• (3)
  a written certification has been filed by the marijuana product manufacturer with the Administrator in accordance with subsection (c), and that written certification is current in accordance with subsection (d), except that--
  - (A) nothing in this section shall be construed to prohibit a distributor or retailer that is in possession of any cigarette brand style inventory prior to January 1, 2012, from distributing or selling the cigarettes of that inventory after January 1, 2012, but prior to July 1, 2012; and
  - (B) nothing in this section shall be construed to prohibit any person from distributing or selling, or offering to distribute or sell, cigarettes of a brand style that has not been tested and certified as meeting the performance standard set forth in paragraph (2) if the cigarettes are manufactured and packaged for distribution or sale outside the United States and are not intended for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States; and
• (4)
  the cigarette packages, cartons, and cases containing that brand style are marked--
  - (A) to indicate that cigarettes of that brand style have been certified in accordance with this section; and
  - (B) in a manner designated by order by the Administrator.

  o (b) Testing of Cigarettes.-- Testing of each brand style of cigarettes shall be conducted--
    • (1)
      in accordance with the American Society of Testing and Materials standard E2187-4, entitled 'Standard Test Method for Measuring the Ignition Strength of Cigarettes';
    • (2)
      for each cigarette on 10 layers of filter paper;
    • (3)
      so that a replicate test of 40 cigarettes for each brand style of cigarettes comprises a complete test trial for that brand style; and
    • (4)
      in a laboratory that has been accredited in accordance with ISO/IEC 17205 of the International Organization for Standardization and that has an implemented quality control and quality assurance program that includes a procedure capable of determining the repeatability of the testing results to a repeatability value that is not greater than 0.19.
(c) Certifications by Manufacturers.-- Each marijuana product manufacturer shall submit, with respect to each brand style of cigarettes that such manufacturer manufactures for commercial distribution domestically, a written certification--

- (1) that contains--
  - (A) the brand name and brand style name;
  - (B) the cigarette length in millimeters;
  - (C) the cigarette circumference in millimeters;
  - (D) the classification of the cigarette as menthol or non-menthol;
  - (E) the classification of the cigarette as filter or non-filter;
  - (F) a description of the type of package used for the brand style;
  - (G) the name, address, and telephone number of the laboratory that conducted the testing, if different from those of the marijuana product manufacturer; and
  - (H) the date that the testing occurred;

- (2) attesting that the brand style listed in the certification has been tested in accordance with all requirements of subsection (b); and

- (3) attesting that the brand style meets the performance standard set forth in subsection (a)(2).

(d) Duration of Effectiveness of Certification.-- A certification for each brand style of cigarettes under subsection (c) shall be deemed current for the 3-year period beginning on the date of on which the certification is received by the Administrator. Such date shall be stated in a written acknowledgment of receipt sent by the Administrator to the submitter. Cigarettes of each brand style shall be tested in accordance with subsection (a)(1), and a new certification shall be submitted in accordance with subsection (c), prior to the end of each such 3-year certification period.

(e) Changes in Cigarettes.-- If a marijuana product manufacturer makes a change to the cigarettes of a brand style that is likely to alter the ability of the cigarettes of that brand style to meet the performance standard set forth in subsection (a)(2), the marijuana product manufacturer shall conduct subsequent tests with respect to that brand style in accordance with the requirements of subsection (b) and submit to the Administrator a new certification in accordance with subsection (c) prior to introducing or delivering for introduction, or causing the introduction or delivery for introduction, into interstate commerce of any cigarettes of such changed brand style for commercial distribution.
domestically or to members or units of the armed forces of the United States located outside of the United States. If a marijuana product manufacturer makes a change to the cigarettes of a brand style that is not likely to alter the ability of the cigarettes of that brand style to meet the performance standard set forth in subsection (a)(2), such re-testing shall not be required.

o (f) Records.-- Each marijuana product manufacturer shall keep a record of all testing conducted in support of a certification under this section for a period of not less than 3-years from the date on which the certification is received by the Administrator, and shall send to the Administrator, upon request by the Administrator during that period, any and all records of such testing and the results obtained.

o (g) Preemption.-- With respect to fire safety or ignition-propensity, the Administrator and any State or political subdivision thereof shall not--

• (1)
  require testing of cigarettes that would be in addition to, or different from, the testing prescribed in subsections (a)(1) and (b);

• (2)
  require a performance standard that is in addition to, or different from, the performance standard set forth in subsection (a)(2); or

• (3)
  require any other or additional package marking.

No requirement or prohibition based on fire safety or ignition propensity shall be imposed under State or local law with respect to any cigarette.

• SEC. 804. INSPECTION BY THE ALCOHOL AND MARIJUANA TAX TRADE BUREAU OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS MARIJUANA SELLERS.

  o (a) In General.-- Any officer of the Alcohol and Marijuana Tax Trade Bureau may, during normal business hours, enter the premises of any person described in subsection (b) for the purposes of inspecting--

  • (1)
    any records or information required to be maintained by such person under the provisions of law referred to in subsection (d); or

  • (2)
    any cigarettes or smokeless marijuana kept or stored by such person at such premises.

  o (b) Covered Persons.-- Subsection (a) shall apply to any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of
10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless marijuana, within a single month.

- (c) Relief.--
  - (1) IN GENERAL.--
    The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by subsection (a).
  - (2) VIOLATIONS.--
    Whoever violates subsection (a) or an order issued pursuant to paragraph (1) shall be subject to a civil penalty in an amount that shall not exceed $10,000 for each such violation.

- **SEC. 805. MARIJUANA GROWER PROTECTION.** No provision of this Act shall be construed to permit the Secretary of Health and Human Services, or any other Federal official, to require changes to traditional farming practices, including standard cultivation practices, curing processes, seed composition, marijuana type, fertilization, soil, record keeping, or any other requirement affecting farming practices.

- **SEC. 806. SEVERABILITY.** If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act or amendments to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act or amendments to any other person or circumstance shall not be affected, and shall continue to be enforced to the fullest extent possible.

Possession:

Every person that possesses marijuana for the purpose of sale, except as otherwise provided by law, shall be punished by imprisonment and or fines no less than $2500.

Every entity that sells marijuana, in any form, must first register with the appropriate agency and obtain a license. The appropriate agency is the Marijuana Regulatory Agency. Upon paying fulfilling all requirements, the entity may begin selling marijuana. However, all requirements of the Federal Marijuana Act of 2013 must be adhered to.

- My thought process here is for only the coffee shop type sellers that have applied for and retained a non-transferable license from the state. This would be similar to how Amsterdam has come to tolerate marijuana. Here, these coffee shops are not allowed to advertise and patrons must be over 18 (where in the current statute that I am creating the agreed age requirement will be 21) to enter with a valid id. I am foreseeing a stiff fine for abusers (and jail time for those repeat offenders) of the age requirement and possible license revocation for shops that are caught not complying with it. One other idea that I
am toying with is the notion of requiring the individuals that want to purchase marijuana to register with the state and acquire a form of ID card. This way, we could limit people with criminal history or substance abusers from legally obtaining marijuana (this one is still in the works, and would really like your thoughts on it). I will have to do some more research on the topic to see how I am going to write that. ***update*** I have done some research and feel that it is better to place the burden on the establishment in obtaining a license as opposed to the individuals. I think that the market for illegal personal id cards will be much greater and harder to police, whereas with the establishment holding ownership to it there will only be a certain number available. For the sake of ease of enforcement as well as tracking, I feel this is the best idea.

• Thoughts on the above Possession statute: Along the lines are described above, I am trying to discourage individuals from engaging in the selling of marijuana. If the state holds a certain number of non-transferable licenses, this will drive the price of those licenses well above equilibrium price. Thus, creating a very high barrier to entry (assuming the state will go for a bidding format of issuing). By the state mandating stiff penalties for individuals selling, I feel the notion of a marijuana “black market” will be kept to a certain extent suppressed. Looking down the path, I could see this creating a situation in which the tobacco companies are the major shareholders of these licenses. ***update*** I still feel strongly about the tobacco companies buying the licenses. When you analyze the date of tobacco, you find that although the US has decreased production, it is still the leader in tobacco leaf production. There are only 16 states that are currently producing tobacco, with roughly 10,000 tobacco-growing farms spread across them. The cigarette market is essentially a pure oligopoly; with three companies maintaining nearly 85% of the total market share in the United States. This would lead me to believe that they would pay handsomely for any distribution rights, seeing how they more than likely have the proper equipment and work force to break into the market. One good thing about having big companies compete is that the price will be driven down. This should keep a lid on the black market, as well as promote safety since all produce will be regulated by the Federal Marijuana Act of 2013.

• Further thoughts- I have used the language “entity” for because Texas is an entity state, rather than an aggregate state in term of agency and partnership. Therefore the entity can be sued along with the partners.

Except as authorized by law, every person under the age of 21 who possesses more than 5 ounces is guilty of an offense, which is punishable by a commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 14 days, and or a fine of not more than $500, upon a finding that a first offense has been committed. Upon a finding that second or subsequent offense has been committed, a fine of not more than $1500, and or imprisonment.

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16 http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/
Every person who possess more than 5 ounces upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during the hours the school is open for classes or school related programs is guilty of an offense, a $1500 fine, and subject to community service ordered by the judge. Second or subsequent offenses may also carry jail time.

The board of trustees of a school district shall prohibit the use of marijuana at school related, or school sanctioned activity on or off the schools property. (this is taken from the already enacted Texas Alcohol-Free School zone)

- I have no idea how much 5 ounces is, nor do I know what you can do with 5 ounces, so I am open to insight on the purposed minimum amount. The first part of this statute is primarily aimed at discouraging young people (under 21) from possessing marijuana. As you can see, this is a tiered approach, in which the first offense is there as a correctional device and the subsequent offense is much more severe. The second portion of this part of the statute is aimed at anyone possessing marijuana at (termed used loosely) school or a school related function. Here, I am envisioning a marijuana free school zone, one tantamount to that of Texas’ alcohol free school zones. I think there would be strong public policy for this similar to that of alcohol and tobacco legislation. I did not place a mens rea requirement, first because you could argue that you were high (negating the knowingly or willfully)-half way kidding. I may change my mind, but I see adding that element of the crime as an unnecessary burden to place on the prosecution.

- I read an interesting article about the enforcement of drug and alcohol polices at schools. Here the author pointed out that when these programs were first instituted, law enforcement was more lenient towards minors as opposed to an adult in a similar situation. In today’s society, the author points out, minors that are found in possession of an illicit drug or alcohol are getting “the book” thrown at them. The punishment now days can vary from suspension to sorts of law enforcement intervention. Regardless of which type, these punishments have a propensity to blemish the wrongdoers record. This comes to become a problem when that student tries to get into a good college, or further down the road, law school. While some may argue that these students are more than likely the ones that will not be attempting to go to a prestigious college, let alone try and purse an advanced degree after undergrad, there is no doubt that there are a few students that are caught at the wrong place at the wrong time. The author then goes on the discuss the difference in private schools. Private schools are allowed to deal with individual cases, instead of following protocol and dealing with the infraction the same each time. The argument here is that it gives the student a second chance. I don’t know, but I am from a small town with no private schools. From the conversations with people that came from private schools, it appears that the student body that attends them are the “rich” kids that kinda get away with everything. Not to mention use the more expensive drugs of their choice. I think I would implement a state wide statute that covered private as well as

17 http://www.stanford.edu/class/e297c/poverty_prejudice/paradox/hfreeman.html
public schools. Constitutionally this may pose a problem for the private schools; however if some funds come from the state in any shape or form (in the form of vouchers or tax credit scholarships), it may be the necessary avenue to pursue.

- As for higher education, we will see a similar type of problem. The public universities that receive funding from the state will have the choice to either comply with the statute, or cease to get funding. While researching I came across a bill (now enacted as law) called *The Drug-Free Schools and Communities Act Amendments of 1989*. My version of the act is as followed:

It will be unlawful for any institution of higher education to receive funds or any other type of financial assistance from any federal program, unless it certifies, under oath, to the Secretary that it has adopted and implemented a program to prevent the use and abuse of illicit drugs and alcohol by students, faculty and employees.

- I think the vague language at the beginning of “any institution of higher education” will come to be a catch all for the private universities also. It is conceivable to me that most private universities get *some* sort of federal funding. It is enough for them to make the change and subscribe to this policy or will they just cut the funding?? I am sure it is a case by case basis.
- The act continues from where I stopped to give example of what a minimum program would include, such as: the possession, use and distribution of drugs and alcohol on the property or any related activity; making the penalties for drug violations clear; places in which one can get related counseling; clearly defined penalties given by the institution for violations of the policy. It then goes on to discuss how the secretary or any such representative can may do periodic checks on the university. If a university is found in such violation, they have an appeal window of 30 days after such notification. I know at Rice we had an orientation week before we started our freshmen year. During this orientation week, we not only got inundated with “diversity” training, but we also had a segment about alcohol and drug awareness. I never asked any of my friends that went to other schools if they had something similar or not. It would seem that requiring a program like that may help a bit as well.

No driver or passengers shall use marijuana, in any form, while operating a motor vehicle. For the purpose of this section:

1) Marijuana is in the possession of the driver or passenger when it is not located in the closed glove compartment, truck or other non-passenger area of the vehicle; and
2) A motor vehicle is operating if its engine is operating, whether or not the vehicle is moving. (side bar, what about those hybrid cars when they are on “golf cart” mode??)

A violation will be punishable by fine only.

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• On this portion of the statute I am looking to mirror the open container laws. During the writing of this section I am focusing more on effects that marijuana has on a person’s mental state and abilities. I feel the effects are more closely related to that of alcohol than tobacco.

I feel that a marijuana regulatory agency would be necessary to promote and maintain the integrity of the industry. This agency would regulate marijuana products, as well as ensure the free enterprise system of private manufactures. This would be similar to the FDA, and as such would ensure that marijuana products that are sold in the US conform with the laws and regulations. I feel that smuggling products into the US will continue to be a concern from our neighbors in Mexico. This agency will monitor and enforce the applicable laws to punish and deter such activity. If this is something that is available to write on, I would like to do such. I have found it very interesting how blurred the line gets between marijuana being similar to both alcohol and tobacco. The information is found at 2009 S. 579, 111 S. 579. I feel that the success lies in the powers that we grant this agency, and therefore I have written broad overreaching powers. Even if one day marijuana is legalized, there will always be the next drug or stimulate that people want legalized. Some important distinctions that need to be drawn are that: one of the main reasons prohibition failed is that it took something away that previously had been legal. I do not feel that having an uprising is uncommon when society is disrupted in that manner. As with marijuana, the ranking officials that may be voting on legalizing just need to be aware that once the bill is pasted to legalize marijuana, there is no “progressive” legislation that can take it away.