

July 2018



REGULATING & TAXING MARIJUANA

a special report on potential revenue
& financial benefits for Pennsylvania

Introduction

Across the U.S., state after state is regulating and taxing marijuana. This move reflects an observable shift in public perspective on adult use and on increasing acknowledgment of the financial and public health benefits associated with regulation and taxation.

As Philadelphia and Pittsburgh have demonstrated, decriminalizing marijuana saves millions in court costs alone. But stopping at decriminalization would be a costly mistake for the commonwealth, potentially leaving more than \$581 million in annual tax revenue on the table. That revenue could help balance the state budget and provide business and job opportunities — and the way to access it is for Pennsylvania to allow the cultivation, sale and purchase of marijuana.

Pennsylvania's budget challenges are now a consistent factor in all state policy decisions. Taxing marijuana offers a rare glimmer of fiscal hope, providing a way to refocus the state budget process away from filling its own gaps. Instead, legislators could focus on increasing funding for pre-K initiatives, veterans' mental health access, and uninsured or underinsured at-risk children.

With marijuana legal in nearby Vermont, Massachusetts and the District of Columbia, and with New Jersey, New York, Virginia, Connecticut and Delaware opening pathways to regulation, it's imperative that Pennsylvania not lose its potential customers to other states' markets. It is time for Pennsylvania to realize the benefits from regulating and taxing marijuana.

BACKGROUND

MARIJUANA REGULATION THROUGHOUT THE U.S.

In 2012, Colorado and Washington became the first states to legalize marijuana for adult use via referendum.

These major breakthroughs came after 40 years of effort across the country and on the heels of research debunking the long-held myth that marijuana use served as a “gateway” to hard drug use.¹ Ballot measures in subsequent years passed in Alaska, California, the District of Columbia, Maine, Massachusetts, Nevada and Oregon. Since 2013, tribal sovereignty has allowed Indigenous American reservations to legalize marijuana for use and sale. In 2018, Vermont Gov. Phil Scott signed into law the sale of marijuana, marking the first successful legalization effort via the legislative process.

The legal landscape of marijuana in these states is not uniform. Commercial distribution of marijuana is not legal in the District of Columbia or Vermont. Washington does not allow for the personal cultivation of marijuana. But in nine states, the District of Columbia and reservations across the U.S., adults age 21 and over may legally use marijuana.

This development reflects an observable change in the U.S.: The percentage of Americans who believe marijuana should be legal nearly doubled, from 31 percent to 61 percent, between 2000 and 2017.²

This swiftly changing attitude is clearly affecting elections. 2017 gubernatorial elections in New Jersey and Virginia saw pro-legalization or decriminalization candidates win easily. Even John Boehner, former speaker of the U.S. House of Representatives and a staunch conservative, supports legalization.

What not long ago was a fringe issue is now one that virtually all candidates are asked to take a position on. At this point it is difficult to imagine that debates for the 2020 presidential primaries will not address, at the very least, marijuana’s removal from the Controlled Substances Act, which classifies marijuana alongside heroin as a Schedule I drug. Schedule I drugs, according to the Drug Enforcement Administration, have “no currently accepted medical use and a high potential for abuse.”³ The Schedule I classification is a hurdle for states regulating marijuana. Several bills introduced since 2017 in Congress seek to remove marijuana from Schedule I (H.R. 1227) status, to reclassify it as a Schedule III drug (H.R. 2020) and to amend the Controlled Substances Act (S. 3032, H.R. 6043) to recognize that marijuana has accepted medical uses.

In 2018, Michigan could have a ballot measure and Illinois an advisory measure for legal marijuana. A legislative committee has passed a marijuana bill in Connecticut, and a task force has amended legalization legislation in Delaware.

¹ Morral, Andrew R; McCaffrey, Daniel F.; Paddock, Susan M. *Addiction*. “Reassessing the Marijuana Gateway Effect.” Published Jan. 1, 2002. https://www.rand.org/pubs/external_publications/EP20021208.html. Accessed June 21, 2018.

² Geiger, Abigail. Pew Research Center, Fact Tank. “*About six-in-ten Americans support marijuana legalization.*” Published Jan. 5, 2018. <http://www.pewresearch.org/fact-tank/2018/01/05/americans-support-marijuana-legalization/>. Accessed June 4, 2018.

³ U.S. Drug Enforcement Administration. <https://www.dea.gov/druginfo/ds.shtml>. Accessed June 4, 2018.

HISTORY OF MARIJUANA IN PENNSYLVANIA

⁴ Danahy, Anne. WPSU. “*Medical Marijuana Could Be Good Business in Pennsylvania.*” Published Jan. 30, 2018. <http://radio.wpsu.org/post/medical-marijuana-could-be-good-business-pennsylvania>. Accessed June 4, 2018.

⁵ Durantine, Peter. Franklin & Marshall College. “*Majority of Pennsylvanians Now Support Marijuana Legalization, F&M Poll Shows.*” Published May 11, 2017. <https://www.fandm.edu/news/latest-news/2017/05/11/majority-of-pennsylvanians-now-support-marijuana-legalization-f-m-poll-shows>. Accessed June 4, 2018.

⁶ Fitzgerald, Thomas. The Philadelphia Inquirer. “*Pa. voters’ view on marijuana: Legalize it, dude.*” Published May 11, 2017. <http://www.philly.com/philly/news/politics/state/Pennsylvania-voters-legalize-marijuana-poll.html>. Accessed June 15, 2018.

⁷ Scott, Jason. Central Penn Business Journal. “*Cumberland County lawmaker seeking tax on medical, recreational marijuana sales.*” Published Dec. 4, 2017. <http://www.cpbj.com/article/20171204/CPBJ01/171209977/cumberland-county-lawmaker-seeking-tax-on-medical-recreational-marijuana-sales>. Accessed June 4, 2018.

⁸ Coughlin, Matt. The Morning Call. “*How close is legal marijuana in PA?*” Published May 12, 2017. <http://www.mcall.com/news/breaking/mc-pa-pennsylvania-varied-marijuana-legislation-20170512-story.html>. Accessed June 4, 2018.

⁹ Visit Philadelphia. 2017 Annual Report. <http://files.visitphilly.com/Visit-Philadelphia-annual-report-2017.pdf>. Accessed June 4, 2018.

In 2016, Pennsylvania joined 28 states that have legalized medical marijuana. Dispensaries opened to the public in February 2018, and the state Department of Revenue expects the industry to bring in more than \$12 million in tax revenue annually for the state.⁴

The majority of Pennsylvania voters — 56 percent — support legislation that legalizes recreational marijuana, according to a 2017 Franklin & Marshall College Poll.⁵ F&M has surveyed the issue for more than a decade, and 2017 was the first time a majority of respondents supported legalization. “That’s a fast attitudinal change,” pollster G. Terry Madonna told The Philadelphia Inquirer in 2017. “There is a growing cultural acceptance of marijuana use.”⁶

Auditor General Eugene DePasquale became the first statewide elected official to endorse regulating and taxing marijuana in March 2017.

In 2017, numerous bills — from bipartisan sponsors — addressed marijuana-related issues. For example, state Rep. Greg Rothman sought support to introduce a bill that would apply the state sales tax and existing tobacco products tax to marijuana purchases, if marijuana were legal.⁷ And Sen. Daylin Leach introduced SB 213, which calls for legalizing and regulating marijuana like alcohol. That bill was referred to the Senate Law & Justice Committee on Jan. 17, 2018, and has not moved.⁸

Even without a clear path to legalization, the destination — tax revenue from its sale and numerous public health benefits — is too vivid to ignore.

Each of Pennsylvania’s neighbors — Ohio, West Virginia, Maryland, Delaware, New Jersey and New York — has legalized medical marijuana, and several are poised to allow it altogether. However, Pennsylvania is in an advantageous position to become a destination and access point for two reasons:

- commercial distribution is not legal in the District of Columbia, and
- Pennsylvania is the bottleneck to southeastern states, the majority of which have not legalized medical marijuana.

One consideration must be tourism: The Philadelphia area draws millions of tourists each year. In 2016 alone, a record 42 million tourists’ spending generated \$634 million in tax revenue.⁹ At this point, Pennsylvania is potentially leaving a great deal of tourism money on the table, since marijuana has been decriminalized there but it is not being regulated, sold and taxed, and legalization in Delaware is imminent.

PENNSYLVANIA'S BUDGET

Over the past few years, the General Assembly has been constantly searching for additional revenue to help balance the more than \$30 billion state budget.

However, instead of finding enough recurring revenues, legislators continue to rely heavily on short-term borrowing to pay the state's bills, using money from the Short Term Investment Program (STIP) as well as fund transfers. The STIP process involves Treasury taking out a line of credit so that the state can pay its bills on time. The STIP has been used at least once a year for about \$1 billion of short-term borrowing each of the last three fiscal years.

Even when the General Assembly can agree on revenues, sometimes lawmakers do not pass the necessary legislation to help get the revenue, which causes a budget hole. For example:

- in 2016-17, legislators failed to pass a gaming expansion bill that left the state budget over \$150 million out of balance, and
- in 2017-18, a federal judge disallowed a \$200 million transfer to the General Fund from a state-created medical malpractice insurer of last resort, which puts that budget out of balance as well.

DECRIMINALIZATION IN PENNSYLVANIA

Pennsylvania's two largest cities, Philadelphia and Pittsburgh, already decriminalized possession of up to roughly 1 ounce of marijuana.

Statistics from the Pittsburgh mayor's office show that arrests involving marijuana possession topped 2,000 in 2013, their highest point this decade. However, in 2016, the first full year marijuana was decriminalized, possession arrests were down nearly 50 percent. The other 50 percent of arrests were for possession of more than 1 ounce.

In 2017, three years after marijuana was decriminalized in Philadelphia, arrests for possession were down 75 percent. As of February 2018, city District Attorney Larry Krasner said his office will not bring charges against those arrested for simple possession of more than 1 ounce.

\$1.66 Billion

THE ECONOMIC BOOST FROM MARIJUANA

Let's assume Pennsylvania approved marijuana for adult use only (21 or older). The adult population of Pennsylvania is roughly 9,529,309, according to American Community Survey estimates.¹⁰ Survey data by the Substance Abuse Mental Health Services Administration show that, as of 2015-16, 8.38 percent of Pennsylvania adults admit to being regular marijuana users, meaning they used it within the past month.¹¹ That means Pennsylvania's current market for regular marijuana users is about 798,556 adults.

In 2017, marijuana sales totaled \$1.3 billion in Washington and more than \$1.5 billion in Colorado, meaning the average user spends about \$2,080 per year in those states. Assuming Pennsylvania users would spend a similar amount, that translates into 798,556 adult users creating a roughly \$1.66 billion industry in Pennsylvania.

Here is how potential Pennsylvania sales compare to actual Washington and Colorado sales:

| State | Adult population | Monthly adult use | Estimated monthly users | Estimated annual spending/user | Estimated market size |
|--------------|------------------|-------------------|-------------------------|--------------------------------|-----------------------|
| Pennsylvania | 9,529,309 | 8.38% | 798,556 | \$2,080 | \$1.66 billion |
| Colorado | 4,180,931 | 17.12% | 715,775 | \$2,106 | \$1.5 billion |
| Washington | 5,540,571 | 11.42% | 632,733 | \$2,055 | \$1.3 billion |

Sources: Population estimates from the 2016 American Community Survey. Monthly use estimates from the 2016 National Household Survey on Drug Use, past month marijuana use. Note that Colorado and Washington market sizes are actuals, while Pennsylvania's is

The \$1.66 billion estimate includes only the total direct sales of marijuana. It excludes the economic activity generated by jobs and businesses created to support the retail marijuana industry in Pennsylvania. It also does not account for the decreased criminal justice system costs as a result of eliminating arrests and incarcerations for possession of marijuana.

¹⁰ 2012-2016 American Community Survey 5-Year Estimates. <https://factfinder.census.gov/>. Accessed May 31, 2018.

¹¹ Substance Abuse Mental Health Services Administration. Table 88 – Selected Drug Use, Perceptions of Great Risk, Past Year Substance Use Disorder and Treatment and Past Year Mental Health Measures in Pennsylvania, by Age Group: Percentages, Annual Averages Based on 2015-16 NDSUHs. <https://www.samhsa.gov/data/report/2015-2016-nsduh-state-specific-tables>. Accessed May 30, 2018.

Historical data from Washington and Colorado demonstrate that several years may be needed to build up to the full potential of the regulated marijuana market. For example, in Colorado, sales rose from \$683 million in 2014 to \$1.5 billion in 2017, and tax revenues jumped from \$68 million to \$247 million in that time. Also during that time, adult use grew by roughly one-third as underage use declined.¹² Currently, about 17 percent of Colorado adults use marijuana regularly, according to survey data.¹³ That's a nearly 7 percent increase in adult users from 2011-12.¹⁴

POTENTIAL ANNUAL STATE TAX REVENUE

\$581 Million

How states tax marijuana varies. For example, Washington initially imposed a 75 percent overall tax levied in three increments: a 25 percent tax on grower sales to processors, a 25 percent tax on processor sales to retailers, and a 25 percent tax on retail sales. However, it later moved to a single 37 percent excise tax on gross retail receipts, although it still levies state and local sales taxes.

Colorado imposes a 15 percent excise tax on producers, a 10 percent sales/retail excise tax, plus a 2.9 percent state sales tax and up to 8 percent local sales tax. Alaska, on the other hand, simply imposes a \$50-per-ounce excise tax on producers.

In Pennsylvania, medical marijuana is subject to a 5 percent tax on the gross receipts received from its sale by a grower or processor to a dispensary.¹⁵ It is not subject to sales tax. By contrast, alcohol is subject to a malt beverage and liquor tax based on volume, as well as an 18 percent liquor tax¹⁶ and 6 percent state sales tax. It is interesting to note that the malt beverage and liquor tax rates have not been updated since 1947. Cigarettes are taxed at a rate of \$2.60 per pack of 20, or 13 cents per stick, as well as 6 percent state sales tax and 1-2 percent local sales tax in Philadelphia and Allegheny counties.

¹² Substance Abuse and Mental Health Services Administration. National Household Survey on Drug Use. <https://www.samhsa.gov/data/report/2015-2016-nsduh-state-specific-tables>. Accessed June 6, 2018.

¹³ *Ibid.*

¹⁴ Substance Abuse Mental Health Services Administration. Table 22 – Selected Drug Use, Perceptions of Great Risk, Average Annual Rates of First Use of Marijuana, Past Year Substance Dependence or Abuse, Needing but Not Receiving Treatment, and Past Year Mental Health Measures in Colorado, by Age Group: Percentages, Annual Averages Based on 2011-2012 NDSUHs. <https://www.samhsa.gov/data/sites/default/files/NSDUHStateEst2011-2012/StateTabs/Web/NSDUHsacCO2012.pdf>. Accessed May 30, 2018.

¹⁵ Pennsylvania Department of Revenue. “*Medical Marijuana FAQ Sheet*.” http://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/Documents/medical_marijuana_faq.pdf. Accessed June 1, 2018.

¹⁶ Pennsylvania Department of Revenue. <http://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/Pages/Malt-Beverage-and-Liquor-Tax.aspx>. Accessed June 1, 2018.

Regulation and taxation of marijuana would have to take into account other factors, including the following:

- **Tax rates in neighboring states.** As Pennsylvania’s neighbors move toward approving marijuana for sale, a close eye must be kept on the proposed tax rates to allow Pennsylvania’s market to remain competitive.
- **Lower initial tax rates.** If taxed too high from the outset, it might deter users from moving from the illegal to the legal, regulated market.

Taxing marijuana could take many forms in Pennsylvania. Based on how alcohol, cigarettes and medical marijuana are taxed in Pennsylvania, as well as the additional identified factors, here is what we recommend:

| Producer/ grower excise tax | Retail/sales excise tax | State sales tax | Local sales tax (first- and second-class | Total |
|--|------------------------------------|------------------------|---|--------------|
| 10% | 19% | 6% | 1-2% | 35-37% |

**See "Adding local tax in Philadelphia and Allegheny counties"*

Assuming a roughly 35 percent tax rate on the potential \$1.66 billion industry, Pennsylvania would receive about \$581 million annually in revenue from the regulation and taxation of marijuana.

ADDING LOCAL TAX IN PHILADELPHIA AND ALLEGHENY COUNTIES

Given their proximity to neighboring states and their status as tourist destinations, both Philadelphia and Allegheny counties should be given the ability to impose local sales taxes so that they can remain competitive, account for a higher cost of living in urban areas and reap their own economic benefits for residents.

Legislation could be written to give first- and second-class cities the authority to do so.

Respectively, adults in Allegheny and Philadelphia counties would contribute about \$194 million and \$343 million annually to Pennsylvania’s marijuana market, which would be taxed at roughly 35 percent. If Allegheny were to impose a 1 percent local tax and Philadelphia were to impose a 2 percent local tax, estimated revenue would be \$3.8 million for Allegheny County and \$6.9 million for Philadelphia County.

| County | Allegheny | Philadelphia |
|---------------------------------------|---------------|---------------|
| Adult population | 949,646 | 1,139,054 |
| Monthly adult use | 9.8% | 14.5% |
| Estimated monthly users | 93,065 | 165,049 |
| Estimated annual spending/user | \$2,080 | \$2,080 |
| Estimated market size | \$193,575,200 | \$343,301,920 |
| Estimated local tax | 1% | 2% |
| Estimated local tax revenue | \$3.8 million | \$6.9 million |

Sources: Population estimates from the 2016 American Community Survey. Monthly use estimates from the 2014-2016 National Survey on Drug Use and Health Substate Regional Estimates by Age Group, past month marijuana use.

HOW PENNSYLVANIANS BENEFIT

In addition to helping stem the need for short-term borrowing, \$581 million in tax revenue could be used for initiatives such as:

CHIP EXPANSION

The Children's Health Insurance Program (CHIP) is remarkably successful, providing health coverage for 180,000 children in Pennsylvania.¹⁷ For every \$10 million in new funding, about 5,000 more children could receive health coverage through CHIP.

OPIOID TREATMENT

As the opioid epidemic rages across Pennsylvania and rips families apart, the need for effective treatment is critical. The commonwealth spent \$20 million of its own money to combat opioids in 2017-18; \$5 million of that was used to purchase 60,000 Naloxone kits, which save lives but do not help addicts receive necessary recovery treatment. Additional funding will help provide opioid recovery treatment and help prepare for a looming meth crisis.

RESEARCH OPPORTUNITIES

In order to protect people from drugged drivers and hold such drivers accountable, an instrument like the Breathalyzer must be developed. A challenge grant for Pennsylvania's research institutions would enable the development of technology that would benefit current and future states regulating marijuana.

EARLY EDUCATION

Many school districts have gone back to half-day kindergarten or cut kindergarten altogether, and many pre-K programs across the state were cut in the last decade. Tax revenue from legal marijuana could help restore these programs, which are proven to help students do better in school and stay out of the criminal justice system. Funding could also be used to teach addiction and substance abuse awareness to elementary-school-age children.

VETERANS' ISSUES

Additional funding means more programs that help veterans access and receive mental health and drug treatment services.

CHILDREN AND YOUTH SERVICES

The state-administered, county-run child-welfare system continues to struggle to adequately protect at-risk children. Forty children died and 88 nearly died in 2017, and 64 percent of those children were already known to county child-welfare agencies. Additional money could be used to increase current staff salaries, add caseworkers and supervisors, and provide more preventive and diversionary programs. For specific recommendations, see the Department of the Auditor General's 2018 "State of the Child Action Plan."

¹⁷ Pennsylvania Children's Health Insurance Program enrollment figures for May 2018. <http://www.chipcoverspakids.com/AboutCHIP/Pages/EnrollmentFigures.aspx>. Accessed June 5, 2018.

POTENTIAL POSITIVE TANGENTIAL EFFECTS

Regulating and taxing marijuana in Pennsylvania will affect more than just the state's bottom line. Research has proven public health benefits, including the following:

- **DECREASED CRIMINAL JUSTICE COSTS**

Nearly 21,000 adults were arrested in Pennsylvania in 2017 for low-level marijuana possession.¹⁸ That total represented more than 80 percent of all marijuana-related arrests in the commonwealth in 2016. In all, prosecution of those individuals arrested for having less than an ounce of cannabis cost taxpayers an estimated \$46 million.¹⁹ If adults could legally use marijuana in Pennsylvania, money would be earned instead of spent.

- **HELP FOR VETERANS**

Regulating and taxing marijuana could be a boon for veterans' health care, whether they require physical or mental health assistance. It would also give veterans increased access to a proven pain reliever that is not currently covered by their federal health insurance because marijuana is still listed as a Schedule I drug.

- **DECREASED ARRESTS**

The American Civil Liberties Union found that, in 2016, black adults were 3.6 times more likely than white adults to be arrested for marijuana possession — and outside of Philadelphia, the disparity increased, with black adults 6.1 times more likely to be arrested for marijuana possession than white adults.²⁰ In 2017, 71 percent of low-level marijuana arrests statewide were of people under 30.²¹ This amounts to thousands of Pennsylvania residents who are hobbled with criminal records at tremendous cost to taxpayers.

- **JOB CREATION**

Though it's difficult to estimate how many jobs could be created by a regulated marijuana market in Pennsylvania, statistics from Colorado show the far-reaching economic impact: Companies in Colorado created more than 18,000 retail, cultivation and manufacturing jobs in 2015 because of the legal marijuana market there.²²

¹⁸ Pennsylvania Uniform Crime Reporting System. Monthly arrest totals for Adult Drug Possession – Marijuana. <http://www.paucrs.pa.gov/UCR/Reporting/Query/RptQueryMainUI.asp>. Accessed June 4, 2018.

¹⁹ Goldstein, Chris. The Inquirer. “*Millennials bear the brunt of Pa. marijuana arrests.*” Published Feb. 16, 2018. <http://www.philly.com/philly/business/cannabis/millennials-bear-the-brunt-of-pa-marijuana-arrests-20180216.html>. Accessed June 4, 2018.

²⁰ ACLU of Pennsylvania. “*Cannabis Crackdown.*” Updated Nov. 3, 2017. <https://www.aclupa.org/issues/criminaljustice/cannabis-crackdown/>. Accessed June 4, 2018.

²¹ Goldstein, Chris. The Inquirer. “*Millennials bear the brunt of Pa. marijuana arrests.*” Published Feb. 16, 2018. <http://www.philly.com/philly/business/cannabis/millennials-bear-the-brunt-of-pa-marijuana-arrests-20180216.html>. Accessed June 4, 2018.

²² Ingram, Christopher. The Washington Post. “*The marijuana industry created more than 18,000 new jobs in Colorado last year.*” Published Oct. 27, 2016. https://www.washingtonpost.com/news/wonk/wp/2016/10/27/the-marijuana-industry-created-over-18000-new-jobs-in-colorado-last-year/?noredirect=on&utm_term=.42450436b2b4. Accessed June 6, 2018.

POTENTIAL POSITIVE TANGENTIAL EFFECTS, CONT.

• REDUCED OPIOID ABUSE

A 2014 study by researchers from the Johns Hopkins Bloomberg School of Public Health and the Philadelphia Veterans Affairs Medical Center established that states with medical marijuana laws had nearly 25 percent fewer opioid overdose deaths per year than states where all forms of marijuana were still illegal.²³ And University of Georgia researchers published an analysis in 2018 that found that, in states where medical marijuana is legal, patients' average doses of opioids consumed throughout the year decreased by 2.11 million.²⁴ Daily average doses decreased by 3.742 million following the opening of medical marijuana dispensaries.²⁵ Pennsylvania recognized that medical marijuana should be leveraged in order to combat opioid abuse by becoming the first state to add opioid-use disorder to the list of qualifying conditions for those applying to the state's medical marijuana program.²⁶ Continuing to criminalize marijuana forecloses upon opportunities to address opioid addiction in a state where 85 percent of drug-related overdose deaths in 2016 involved opioids.²⁷

NFL TIES

According to researchers at Washington University in St. Louis, Missouri, a survey of retired NFL players revealed that 52 percent used opioids during their NFL careers, and 71 percent misused the drugs.

In 2018, the NFL rejected an unprecedented therapeutic-use exemption request from running back Mike James, a free agent who sought medical marijuana treatment to break a dependence on opioids. If players' access to medical marijuana is going to be compromised, legalizing marijuana altogether would make it unnecessary to threaten Philadelphia Eagles and Pittsburgh Steelers players with suspension, fines and banishment from the league over its use.

As marijuana is legalized in other states, it could incentivize athletes — who literally injure themselves for our entertainment — to seek to be traded to states where they can legally access pain management and do not have to wait for exemptions to stay off opioids.

²³ Bachhuber, Marcus A.; Cunningham, Chinazo O.; Saloner, Brendan, et al. Journal of the American Medical Association Internal Medicine. "Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in the United States, 1999-2000." Published Aug. 25, 2014. <https://media.jamanetwork.com/news-item/lower-opioid-overdose-death-rates-associated-with-state-medical-marijuana-laws/>. Accessed June 14, 2018.

²⁴ Abraham, Amanda; Bradford, Ashley C.; Bradford, W. David, et al. Journal of the American Medical Association Internal Medicine. "Association Between US State Medical Cannabis Laws and Opioid Prescribing in the Medicare Part D Population." Published 2018. <https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2676999>. Accessed June 4, 2018.

²⁵ *Ibid.*

²⁶ Pennsylvania Governor's Office. "Wolf Administration Approves Eight Universities as Certified Medical Marijuana Academic Clinical Research Centers." Published May 14, 2018. <https://www.governor.pa.gov/wolf-administration-approves-eight-universities-certified-medical-marijuana-academic-clinical-research-centers/>. Accessed June 4, 2018.

²⁷ Drug Enforcement Administration, Philadelphia Division, and the University of Pittsburgh. "Analysis of Overdose Deaths in Pennsylvania, 2016," page 5. Published July 27, 2017. <https://www.overdosefreepa.pitt.edu/wp-content/uploads/2017/07/DEA-Analysis-of-Overdose-Deaths-in-Pennsylvania-2016.pdf>. Accessed June 4, 2018.

POTENTIAL NEGATIVE TANGENTIAL EFFECTS

All states approving marijuana for adult use are dealing with similar issues, which provides Pennsylvania with a chance to model innovation and become a leader in this newly regulated field. Those issues include:

- **BANKING DIFFICULTIES**

The U.S. Drug Enforcement Administration still lists marijuana as a Schedule I substance. Because banks are insured at the federal level, this has made them largely skittish about working with cannabis-related businesses.²⁸ Accounts related to marijuana require a dedicated representative to monitor their activity per Financial Crimes Enforcement Network (FinCEN) requirements, which can be a burdensome drain on a bank's resources.²⁹ Ameliorating this risk for banks would require intervention from U.S. lawmakers, and while it is an objective that has received bipartisan support, nothing has been established that would bolster the confidence of those who are apprehensive about getting into the marijuana business were it to be legal in Pennsylvania but not nationwide.³⁰

Still, despite the strict requirements from FinCEN, the bureau has reported that the number of depository institutions actively banking with U.S. marijuana businesses are on the rise.³¹ Intent demonstrated by the California legislature to establish a state-chartered bank for cannabis-related businesses shows that this challenge will yield innovations that Pennsylvania can learn from, since federal law means all states, including those that have been benefiting from legal marijuana for half a decade, face this challenge.³²

- **POTENTIAL PRICE DROP**

The price of marijuana in Washington has dropped sharply since it was legalized in 2012, with trends indicating its price may decline at a rate of 25 percent annually.³³ The result of a substantial supply, this compromises tax revenue. However, an accessible commercial product is more effective at replacing the illicit marijuana market and contributes to quicker savings on costs associated with marijuana offenses.³⁴

- **NO RELIABLE DRUGGED DRIVING TEST**

Although various types of tests that detect drugs through saliva and blood exist, none has proven reliable at identifying drivers who are sufficiently impaired at the time of arrest. This deficit provides an opportunity for Pennsylvania's many great research universities to develop a test that reliably and effectively measures marijuana impairment so that drugged driving can be accurately detected and prevented.

²⁸ Ruhl, Lenay. Central Penn Business Journal. "Medical marijuana law: What businesses need to know." Published March 25, 2016. <http://www.cpbj.com/article/20160325/CPBJ01/160329861/medical-marijuana-law-what-businesses-need-to-know>. Accessed June 4, 2018.

²⁹ *Ibid.*

³⁰ S.B.1152 — 115th Congress (2017-2018). Introduced May 17, 2017. <https://www.congress.gov/bill/115th-congress/senate-bill/1152>. Accessed June 4, 2018. H.R.2215 — 115th Congress (2017-2018). Introduced April 27, 2017. <https://www.congress.gov/bill/115th-congress/house-bill/2215>. Accessed June 4, 2018.

³¹ Financial Crimes Enforcement Network. "Marijuana Banking Update." https://www.fincen.gov/sites/default/files/shared/277157%20EA%202nd%20Q%20MJ%20Stats_Public.pdf. Accessed June 4, 2018.

³² Ho, Catherine. The San Francisco Chronicle. "California Senate passes bill to create banks for pot businesses." Published May 30, 2018. https://www.sfchronicle.com/business/article/California-Senate-passes-bill-to-create-banks-for-12955590.php?src=hp_totn. Accessed June 4, 2018.

³³ Humphreys, Keith. The Washington Post. "So, something interesting happens to weed after it's legal." Published May 4, 2016. <https://www.washingtonpost.com/news/wonk/wp/2016/05/04/the-price-of-legal-pot-is-collapsing/>. Accessed June 4, 2018.

³⁴ *Ibid.*

Conclusion

Imagine how Pennsylvania could benefit from \$581 million annually. That tax revenue means:

- **Balanced budgets.**
- **Revived initiatives that affect Pennsylvanians' lives.**
- **Greater resources to address the opioid crisis.**
- **Better health care access for veterans.**
- **Hundreds of millions of dollars in criminal justice savings.**
- **The creation of a booming \$1.66 billion market that will create jobs.**
- **More employees able to qualify for all types of jobs because they do not have criminal records for simple possession.**

The benefits of regulating and taxing marijuana are undeniable. As its neighbors weigh the issue, Pennsylvania must act to create its own marijuana market. Otherwise, it runs the risk of losing the revenue from potential customers to other states.

It is time for Pennsylvania to stop imagining the benefits of marijuana and realize them.

ACKNOWLEDGMENTS

The Department of the Auditor General thanks Andrew McWilliam of the New York City Comptroller's Office for his cooperation and assistance during the research for this special report.

REGULATING & TAXING MARIJUANA

Pa. Auditor General Eugene DePasquale says regulating and taxing marijuana in Pennsylvania would generate much-needed revenue.



Potential Customers

9,529,309
Pennsylvania adults 21 & older

8.38%
Pennsylvania adults who admit using marijuana



= 798,556
Pennsylvania adults who will likely use marijuana regularly

Potential Market Size

798,556 adults

\$2,080
average annual amount spent per user in Colorado & Washington

= \$1.66 billion
potential industry size

Benefit for Pennsylvanians

\$1.66 billion

X 35% total taxes charged at the state level



potential annual state tax revenue:

\$581 MILLION