

Opportunity, Ownership, and Empowerment



**A Federal Cannabis Framework for
Small and Minority-Owned Businesses**



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**coalition
for cannabis**

Policy, Education,
and Regulation

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This paper was produced in consultation with the Main Street Alliance (MSA), which is devoted to seeking to understand the issues that matter most to small businesses – promoting a more accurate understanding of what small businesses need on issues of job quality, capital access, and economic development. Throughout the paper, we will present the perspectives of some MSA members to highlight how the challenges and policies highlighted have impacted small businesses in non-cannabis industries.

Introduction

WITH EVERY NEW STATE THAT PASSES LEGALIZATION, every new poll that shows increasing bipartisan support, and every policymaker that embraces reforming cannabis law, the creation of a legal, national cannabis industry inches nearer. It is time for the federal government to acknowledge that this industry is here and may soon have access to legal interstate commerce. Recently, the national narrative has focused on the inevitability of cannabis legalization.¹ More pertinently, however, is the fact that legalization is already here for much of America.

For many of the communities embracing legalization, the focus is on the ability of legalization to create quality jobs. A 2020 report from Leafly states that legalization already accounts for over 230,000 cannabis industry jobs annually.² Moreover, an analysis of the Colorado cannabis economy concludes that the indirect jobs



1 Lopez, G. (2021, April 20). This 4/20, marijuana legalization has won. Vox. <https://www.vox.com/2021/4/12/22371929/marijuana-legalization-new-mexico-virginia-new-york-biden>

2 Leafly. (2020, February). Leafly Jobs Report 2020. Leafly.com. <https://leafly-images.imgix.net/Leafly-2020-Jobs-Report.pdf>



“There is hope in the advocacy communities that these small business opportunities will survive and thrive with federal legalization.”

created by the cannabis industry are almost half the size of the direct cannabis jobs market. “Security guards, construction and HVAC specialists, consulting, legal, and advisory services, and other business services” equaled about 23 percent of direct employment. In addition, the report estimates that the increased expenditures from workers in the cannabis industry create additional jobs equaling roughly 20 percent of direct employment in the industry.³

There is hope in the advocacy communities that these small business opportunities will survive and thrive with federal legalization. Moreover, that these small business opportunities may be realized by minority communities most impacted by the war on drugs. Many are looking toward the emerging cannabis economy to create small businesses owned by those who have had their life negatively impacted by a cannabis arrest, whether their own or that of a family member.

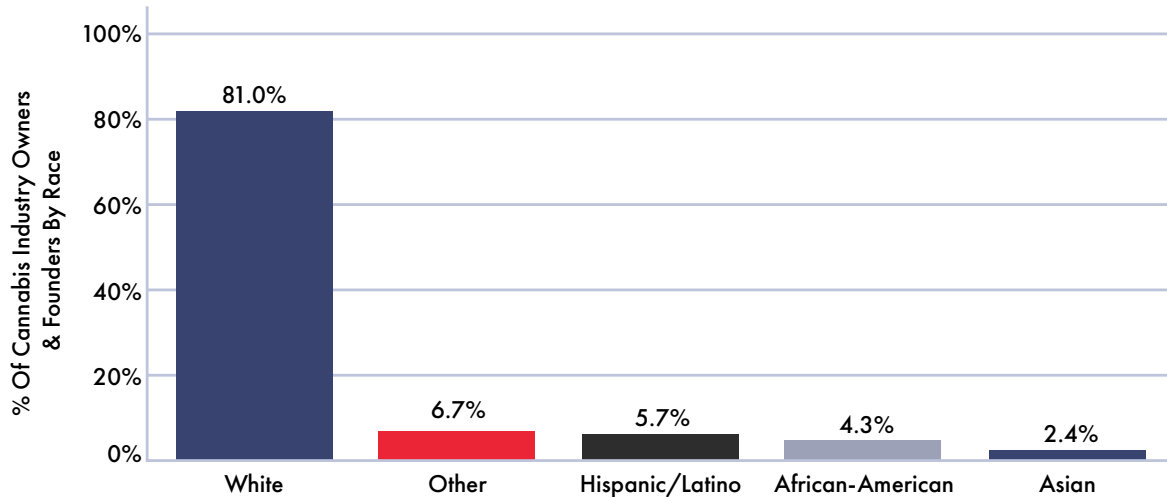
The challenges to making this hope a reality are significant: First, outside of the cannabis economy, there are presently significant disparities in minority access to capital, a lack of universal access to requisite job training, and disparate impacts from high regulatory burdens that negatively affect small and minority-owned businesses. Second, small cannabis businesses suffer significantly because of policy issues unique to cannabis around the further restriction of capital, high levels of taxation, and regulatory systems that value incumbency. Finally, interstate commerce will bring its own set of challenges. There is trepidation among many advocates and current industry members that interstate commerce will achieve economies of scale that crowd out small operators.

The impact of some of these challenges can already be seen within the current cannabis economy. The fact that cannabis is still federally illegal has meant that most traditional methods of accessing capital are not available. Slow rollouts of state regulatory programs mean that businesses are often burning through capital while the bureaucracy is being worked out. A lack of interstate commerce often means that those who are successful have limited opportunities to grow. Even well-intentioned programs that create social equity licenses have had a mixed record of rollouts, often harming the same communities they are seeking to help because they were not correctly structured.

3 Marijuana Policy Group, Light et al. *The Economic Impact of Marijuana Legalization in Colorado*. October 2016.



Breakdown of Marijuana Business Owners & Founders By Race



Note: Results reflect the percentage of respondents with any ownership stake in a marijuana business
Source: Marijuana Business Daily August 2017 reader survey
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In part because of its continued federal illegality, data concerning the current breakdown of minority-owned cannabis businesses are sparse. The last survey of the industry, conducted in 2017 by *Marijuana Business Daily*, found that less than 5 percent of cannabis business owners were Black. *Marijuana Business Daily* [took pains to explain](#) the limitations of this poll. Among them, that this poll oversampled California, whose minority population is substantially higher than the national average, and thus probably overstates the participation of minority business owners. The low percentage of Black participants, given the limitations of the survey, is probably even more notable.

Despite these challenges, the nascent nature of the cannabis industry and the history of victimizing communities of color gives the government a unique opportunity to use cannabis as an opportunity to improve the government's overall approach to encouraging small business growth and improving opportunity for minority entrepreneurs. A federal framework should help alleviate some of the challenges faced by small businesses – providing access to capital, smoother regulatory rollouts, and much-needed technical assistance. The federal government must work now to define what this national economy will look like.

A federal regulatory framework must reflect the significant role that small businesses have played as pioneers of the cannabis economy. And a national marketplace ought to reflect that contribution. We envision a nationwide economic ecosystem underpinned by small and minority-owned businesses where entrepreneurs have a fair on-ramp to grow their investments in the marketplace.



Realizing such a marketplace requires three foundational components: (i) access to capital, (ii) equitable licensing, and (iii) a regulatory framework that is scaled for small business compliance/participation.

This paper highlights opportunities for lawmakers to consider as they craft federal policies to govern a national cannabis industry.



“Small business owners want effective, equitable, and active government support for a thriving small business sector. Though this preference may run counter to conventional wisdom, it reflects the priorities and day-to-day reality of real small business owners across geography, race, gender, and even political affiliation. This is true of the eight small business owners who spoke in-depth with Main Street Alliance about their experiences with Covid relief, their perspectives on government, and their ideas for what it will take to close the gap between small business needs and government action. Entrepreneurship is heralded as a path to opportunity. Yet it is only through government efforts to create a more equal economy, focusing on racial justice, that entrepreneurship can contribute to generational wealth, financial security, and prosperous local economies.”

- *The Role of Government: A Small Business Perspective*⁴

4 Business Education Fund & Main Street Alliance. (2021). *The Role of Government: A Small Business Perspective*. Business Education Fund. <https://static1.squarespace.com/static/5ff74507e375c93150f0ca32/t/60905c2ca055ee-18b199a9dc/1620073527274/Role+of+Government+Report+Design+FINAL.pdf>


Goals and Objectives



WHILE NATIONAL AND MULTI-NATIONAL BUSINESSES can be critical to the sustainable growth of an emerging industry, a federal framework should be designed in a manner that cultivates a symbiotic relationship between small and minority-owned businesses and these national and multi-national businesses. This will involve the use of creative strategies aimed at allowing small and minority-owned businesses to thrive.

As the federal government pursues a comprehensive approach to advancing equity for all, attention must be paid to entrenched disparities in our laws, public policies, and public and private institutions. Decades of prohibition and disproportionate policing have left Black and Latino people with cannabis convictions that in most states are a barrier to entry in the cannabis industry. States like California and Massachusetts were the first to prioritize victims of the drug war in licensing of cannabis businesses, but these business owners are still struggling without banking relationships, access to capital, and other wraparound services and support to ensure not only their entry but sustainability. Existing operators in the cannabis industry range from small and medium-sized farmers, manufacturers, and retailers on the east coast and larger multi-state operators spanning markets across the country and expanding across the globe. All of these companies pay disproportionately higher federal taxes thanks to section 280E⁵ of the Internal Revenue Code but cannot access small business loans and other Small Business Administration (SBA) services. It is imperative that public, private, and social stakeholders collaborate to reform laws and provide innovative solutions as well as tap into existing programs to create equitable opportunities and outcomes.

5 Section 280E of the Internal Revenue Code prohibits the deduction of ordinary business expenses from gross income for Schedule I and II substances, resulting in extremely high effective tax rates for most cannabis businesses.



“Congress must establish a regulatory framework now that creates a culture of opportunity, ownership, and empowerment...”

Defining Success

Congress and the federal government must define success early in the process of establishing a regulatory framework. A final, definition of success is beyond the scope of this paper. However, the broad strokes of success are identifiable. Congress must establish a regulatory framework now that creates a culture of opportunity, ownership, and empowerment for communities and individuals most negatively impacted by the war on cannabis by prioritizing (i) social equity, (ii) community reinvestment, and (iii) economic empowerment.

- An ecosystem centered on small and minority-owned businesses, wherein financial tools and regulatory protection are available to market entrants who fulfill minimum criteria.
- A focus on ensuring communities disproportionately affected by the war on drugs have fair access to the emerging federal legal cannabis market.
- A path to the industry for formerly incarcerated individuals convicted of non-violent cannabis crimes (i.e. expunging the records of people convicted of violating cannabis laws and discontinuing use of previous cannabis convictions as a disqualifier for “good moral character”).
- Small and minority-owned businesses have access to capital.
- Small and minority-owned businesses have all the resources necessary to meet regulatory requirements.
- Federal revenues are allocated for investments in disproportionately affected communities.

Broadly speaking, success looks like an inclusive and vibrant economic ecosystem overflowing with opportunities for a growing class of small businesses and minority entrepreneurs while generating economic growth and jobs in disproportionately affected areas; a self-sustaining industry that recognizes the importance of small businesses and reinvests in communities.

Rethinking “Minority-Owned” Small Businesses in a Federal System

The Small Business Administration’s current definition of minority-owned businesses as “firms that are owned and controlled at least 51% by African Americans, Asian Americans, Hispanic Americans, and Native Americans” creates the incentive to engage in “figure heading,” in which white investors assign a minority investor to the role of CEO but retain control of the business while reaping its profits.

As Congress works on a federal framework for cannabis, is there an opportunity to work with the SBA to improve upon and leverage the definitions of minority-owned businesses and small disadvantaged businesses? The latter is currently defined as being “at least 51% owned and controlled by a socially and economically disadvantaged individual or individuals.” Black Americans, Latino Americans, Asian Pacific Americans, Subcontinent Asian Americans, and Native Americans are presumed to qualify. Other individuals can qualify if they show by a “preponderance of the evidence” that they are disadvantaged. All individuals must have a net worth of less than \$750,000, excluding the equity of the business and primary residence. Successful applicants must also meet applicable size standards for small businesses in their industry.⁶ A potential avenue to explore may include geographic components that factor in cannabis arrests data, gentrification, and communities that have been left behind in our previous government support schemes, such as opportunity zones.

Furthermore, there is an opportunity to work with state oversight authorities to factor these expanded definitions into their licensure and taxation procedures. Addressing the current scope of the SBA definition through these avenues helps the federal government and state authorities improve access to the market for small and minority-owned businesses that qualify.

The Role of the Federal Government vs State Systems

One of the core tensions that policymakers will have to grapple with while pursuing federal legalization is the proper role of the federal government vis-a-vis state regulatory systems. This tension is particularly pronounced with issues of social equity and small business protections. The time, place, and manner that a regulated business operates is a decision most often, and properly, left to local government. Local authorities have the clearest insight into community concerns and have the best ability to tailor their programs accordingly.

⁶ Small Business Administration. (n.d.). Small Disadvantaged Business (SDB) | SBAGOV.org. SBAGov.Org. Retrieved June 14, 2021, from http://sbagov.org/government_opportunities/federal_contracting_guide/small_disadvantaged_business.htm



“We’re a small organic brewery, and as a small business, it can be tough to operate with changing regulations and guidelines. Since we bottle and sell our beer across state lines, we need to know the ins and outs of different state laws and regulatory agencies. We’re happy to do it, but in some states, the regulations change quickly. Lots of times it feels like the states aren’t really coordinating since we often find ourselves dealing with contradictory requirements. We spend a lot of time just making sure we’re tracking the right measurements and filing the right reports to the right agencies on the right timelines — some even require you to file if you have nothing to report. It would be great if there were one, trusted, publicly available, and certified place where I could get all this information to make sure I stayed up to date and current — this would save us hundreds of hours of work, not to mention the constant worry that we missed some crucial update to a state or local regulation.”

- Colorado Brewery Owner

Why should we expect the federal government to get something right on a broad scale that states are struggling to get right on a smaller scale? In part, some of the policy suggestions in this paper address federal government actions and inactions that have hampered states’ abilities to properly implement their legislative priorities – particularly issues concerning interstate commerce, federal tax laws, and banking policy. But more so, the federal government can and should aid the states in some critical areas as they attempt to build economies that foster small business growth and provide meaningful equity access to the marketplace by funding successful programs at a larger scale, establishing defensible definitions of equity, and providing states the incentive to adopt programs and policies that have been proven effective.

State and local programs will have a much more direct impact on how to incorporate small and minority-owned businesses into the regulatory model. The suggestions in this framework are not meant to usurp the state’s role in determining the time, place, and manner with which cannabis businesses operate.

Policies to Pursue

IT IS IMPORTANT TO NOTE that some of the most important policy changes for small and minority-owned businesses are accomplished simply through federal legalization and the creation of a federal regulatory system. Such movement would create access to Small Business Association lending, merchant banking and loans, and relief from extremely high 280E taxation. Probably of even greater importance, providing clarity to business owners – both plant-touching and non-plant touching – that they are not committing a crime, would eliminate the legal, regulatory, and mental costs associated with businesses operating in this legally nebulous space. It would also open up opportunities for local insurance, real estate, construction, plumbing, manufacturing, and dozens of other businesses to engage with this fast-growing industry in a normalized and legal business setting.

Still, as discussed above, many are looking for more protections for small and minority-owned businesses as this nascent industry matures. The following topic areas constitute a non-exhaustive list of policies that the federal government should actively pursue when determining how best to legalize cannabis while protecting small and minority-owned businesses.



Access to Capital

One of the most significant barriers to entry in the cannabis industry for both small and minority-owned businesses is access to capital.

Cova, an industry Point-of-Sale system, broke down the major components of opening a cannabis retail store and determined the startup costs to be between \$150,000 to \$2 million.⁷ That's a broad range, and most in the cannabis industry would say an owner needs to be toward the higher end of that range to avoid running out of working capital before being able to open. In fact, the State of Pennsylvania requires applicants have \$2 million in capital before they can acquire some license types.⁸

Small and minority-owned cannabis businesses face two obstacles concerning accessing this type of capital. First, federal law makes it difficult or even impossible for cannabis businesses to access traditional financial services such as checking accounts, payroll accounts, and lines of credit. Second, there is a significant racial funding gap in the U.S. that results in small businesses owned by people of color receiving less financing, less frequently – and at higher interest rates.⁹

In a report for McKinsey & Company, titled “Building Supportive Ecosystems for Black-owned US Businesses,” the authors observe: “Black entrepreneurs struggle more to secure capital and access to credit. Even with strong personal credit, Black business owners and other entrepreneurs from marginalized groups are about half as likely as their white counterparts to receive full financing.”¹⁰

Both the MORE Act (H.R.3617) and the SAFE Banking Act (H.R.1996) begin to address the goal of closing the racial funding gap. The MORE Act would utilize cannabis tax revenue to establish a Cannabis Opportunity Program to assist small businesses owned and controlled by socially and economically disadvantaged individuals that operate in the cannabis industry. The SAFE Banking Act would require an “Annual Diversity and Inclusion Report” to “address the availability of financial services for minority- and women-owned CRLBs and provide recommendations to expand access to these minority-owned Cannabis Related Legitimate Businesses (CRLBs).” The bill also “requires the comptroller general to

7 Cohen, G. (2017, May 17). How Much Does it Cost to Open a Cannabis Dispensary? Cova. <https://www.covasoftware.com/blog/the-true-cost-of-opening-a-cannabis-dispensary>

8 George, J. (2016, June 1). Here's how much cash you'll need to get into Pa.'s medical marijuana business. Philadelphia Business Journal. https://www.bizjournals.com/philadelphia/morning_roundup/2016/06/penn-medical-marijuana-capital-requirement-permit.html

9 Goldschein, E. (2021, January 8). Black Business Owners Are Shut Out From Capital Due to Racial Funding Gap. Fundera. <https://www.fundera.com/blog/racial-funding-gap>

10 Baboolall, D., Cook, K., Noel, N., Stewart, S., & Yancy, N. (2020, December 4). Building supportive ecosystems for Black-owned US businesses. McKinsey & Company. <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/building-supportive-ecosystems-for-black-owned-us-businesses#>

study barriers to marketplace entry for minority- and women-owned CRLBs, including CRLB licensing and access to financial services.”

The federal government should look toward Black-owned banks to help fill the capital access gap. Black-owned banks tend to be community-oriented and best positioned to make immediate impacts in the communities in which they serve. Empowering Black-owned banks to have the potential to be “anchor institutions” through the provision of resources, a banking relationship, and access to capital can fill funding gaps created through historical distrust many underserved communities have toward large financial institutions.

The federal government should also consider the role of Minority Depository Institutions (MDI’s) and community development financial institutions (CDFIs) as a bridge to supporting historically underserved communities. These institutions were initially created to fill a gap in the financial system for small and minority-owned businesses and they have strong ties to the communities they serve. Those financial institutions “were hit particularly hard during the 2008 financial crisis as evidenced by the higher rates of failures and closures relative to non-minority bank peers.”¹¹ Recently, however, the highest appropriation ever for CDFIs was made in the CARES Act. The \$12 billion from the CARES Act was meant to build the capacity of CDFIs and MDIs. The funding includes \$3 billion in emergency support through the CDFI Fund to provide grants and other financial and technical assistance in the form of \$1.25 billion in Immediate Support for the current fiscal year, and \$1.75 billion – available until it is expended – for supporting Minority Lending Institutions. It also includes a \$9 billion Emergency Capital Investment Program administered by the Department of the Treasury to provide low-cost, long-term capital investments to MDIs and CDFI depositories.¹²

Given their established role in the financial system, and their standing in minority communities, these institutions may serve as a natural conduit to the businesses that need support in the emerging cannabis industry. This can only be achieved by first addressing the process in which an entity is designated as a CDFI. The federal government has been very limited in approving new entities and must make a concerted effort to approve Black-led institutions to build upon the efforts included in the SAFE Banking Act and MORE Act.

These policies will allow the Federal Deposit Insurance Corporation and the Treasury Department to empower MDIs and CDFI’s to be anchor institutions in the communities they serve and, coupled with campaigns to rebuild trust between underserved communities and the U.S. financial system, are a pilot to improve the federal government’s overall approach to improving opportunities for minority and small business owners.

11 Toussaint-Comeau, M., Federal Reserve Bank of Chicago, & Newberger, R. (2017). Minority-Owned Banks and Their Primary Local Market Areas. *Economic Perspectives*, 41 (4). <https://www.chicagofed.org/publications/economic-perspectives/2017/4>

12 CU Stategic Planning. (2020, December 22). \$12 billion in Cares Act for CDFIs. Credit Union Strategic Planning. <https://www.creditunionstrategicplanning.com/post/12-billion-in-cares-act-for-cdfis>

Minority Supplier Standards



THE FEDERAL GOVERNMENT SPENDS MORE than \$400 billion each year on products and services, of which 23 percent is set aside for small businesses and another 16 percent for diverse small businesses. The SBA works with government agencies to make sure these federal supplier diversity requirements are met. Large prime vendors to federal government agencies are also required to subcontract a certain amount of their work to diverse suppliers. This gives us a model to use for the Drug Enforcement Administration's (DEA) procurement of medical cannabis for research.

The Cannabidiol and Marijuana Research Expansion Act (S.253), a bill to streamline the application process for researchers and to increase the number of growers that can provide research-grade cannabis, does not include measures to prioritize diversity and inclusion within its supplier certification framework. Early access to this expansion opportunity would provide small and minority-owned businesses the chance to capture new sources of revenue, the expertise of supplying research-grade cannabis, and the branding of being a federally recognized cannabis cultivator and federal government contractor.

Congress has been increasingly focused on improving conditions around research as it relates to product access and supply. After more than 50 years of using medical cannabis from a single domestic source, the DEA recently announced it is in the process of [registering several additional American companies](#) to produce cannabis for medical and scientific purposes. This new, federally sanctioned pipeline for more products and strains of cannabis presents an opportunity for "true" small businesses and entrepreneurs to successfully secure participation as long as robust and inclusive supplier standards are part of a larger federal framework.

Early Market Access for Small and Minority-Owned Business

Like other emerging industries, first-mover businesses can reap outsized benefits related to brand recognition and larger market share. The emerging industry also benefits from a well-prepared and financed business because of how quickly they can contribute to getting a market up and running. In statewide cannabis markets, those first movers are often well-financed businesses from a medical cannabis market moving into an adult-use retail industry or the delivery service that has the exclusive ability to operate in a resort town. Too often these license opportunities are doled out to incumbent, well-connected individuals. Unlike other aspects of a federal framework, state authority involvement is essential because of the state-led evolution of the industry. State involvement in this issue is also important because of the plethora of opportunities to support inclusive participation that will still differ from state to state. Take compliance requirements for consumption lounges as an example: regulations differ for businesses that can operate outdoors year-round versus businesses that use an indoor orientation because of seasonal weather conditions.

Efforts by state authorities such as the Office of Cannabis Control in Massachusetts or the Illinois Department of Financial and Professional Regulation have fallen short of their goal to create an inclusive marketplace. Is there an opportunity for the federal government to enhance state licensing procedures



“Minnesota’s liquor laws are some of the strictest in the country, especially for direct sale - that’s the hardest on really small distilleries like ours. While over the years things have opened up for direct sale for breweries and wineries, the same has happened only to a much smaller extent for distilleries, making it hard for small distilleries to compete. We’re required to work with distributors if we’re going to sell our spirits. This is fine, but there is a big imbalance in power that is hard for small businesses because in spirits the distributors are much bigger companies, and don’t really need us since they have much bigger clients to rely on. So basically, we need them because of regulations but they don’t actually need us, so the power is out of balance. The regulations have been designed over time with the distributors and retailers in mind, but not the producers.”

-Minnesota Distillery Owner

by providing technical support to encourage the inclusion of small and minority-owned businesses in the emerging industry? Are there other avenues that the federal government can improve its efforts to work with small and minority-owned businesses that could be complementary to current state efforts?

There should be a special focus on business licenses for less capital-intensive businesses within the cannabis economy – such as delivery businesses and consumption lounges – which should have licenses reserved for small and minority-owned businesses.

A measure in the Nevada legislature, for example, proposes to establish licensing for consumption lounges, which are essentially bars where people can legally consume cannabis outside their homes.¹³ The bill includes a preference for minority applicants defined as those “adversely affected by previous laws and criminalized activity relating to cannabis.”¹⁴

As the cannabis regulatory system grows, there will be countless new market opportunities, and the federal government should pursue strategies and support states to improve early access to the regulatory market for small and minority-owned businesses, particularly where there are low-capital opportunities. An equitable federal regulatory framework would recognize these and encourage states to promote programs for small and minority-owned businesses to have out-sized access to these licenses. This may be encouraged through a few policies: the federal government should provide states and localities with data on licensing programs that have successfully created minority-owned small businesses. This could be accomplished by utilizing provisions from the Marijuana Data Collection Act (S.1456), a bipartisan bill reintroduced this session.¹⁵ The federal government could also provide states and localities with grants for technical assistance to create these licensing opportunities, as well as to aid potential licensees in applying for, and successfully launching, a new business.

Federal Tax Revenue Expenditure

A federal tax revenue program should, in part, serve to achieve social equity by prioritizing community reinvestment and economic empowerment of disproportionately affected communities of color.

A successful federal regulatory structure would allocate a significant portion of federal tax revenues for

13 [A.B. 341](#), 2021 Biennium, 2021 Reg. Sess. (Nev. 2021).

14 Rindels, M. (2021, April 3). Lawmakers look to allow cannabis consumption lounges for economic growth, diversifying marijuana industry. The Nevada Independent. <https://thenevadaindependent.com/article/lawmakers-look-to-allow-cannabis-consumption-lounges-for-economic-growth-diversifying-marijuana-industry>

15 https://www.menendez.senate.gov/imo/media/doc/marijuana_data_bill_text.pdf

initiatives aimed at improving negatively affected communities. In addition, revenues should fund programs that help Black and minority entrepreneurs secure access to capital, business support, mentoring, and other professional services.

These types of programs are not new to cannabis legalization bills. The MORE Act establishes a community reinvestment grant program that would fund job training, reentry services, legal aid for civil and criminal cases (including expungement of cannabis convictions), literacy programs, youth recreation or mentoring programs, and health education programs in communities most impacted by the war on drugs. Additionally, the program would target substance use disorder services to those same communities.

The federal government has the opportunity to refine these grant programs to focus on services and programs that have already been proven successful at the state level. For example, Illinois' Restore, Reinvest, and Renew (R3) program, established in its adult-use cannabis legislation, requires 25 percent of marijuana tax dollars to be used to provide disadvantaged people with services such as legal aid, youth development, community reentry, and financial support. The first round of recipients included local governments, faith-based organizations, and businesses. The government should be actively gathering data from these state programs to augment programs that have had a proven effect on positively impacting communities most impacted by the war on drugs.

A Scaled Regulatory System

Policies governing a federal cannabis market should be centered on and influenced by science, innovation consumer protection, and public health. All products available to consumers should be produced using the most rigorous standards. However, regulatory compliance from states and the federal government can be a barrier to market access for businesses of most sizes, especially small minority-owned businesses that already lack accessible financing.

Democratic Congresswoman Nydia M. Velázquez of New York, the Chair of the U.S. House Small Business Committee, has argued that “small cannabis businesses are often left scrambling to remain compliant when regulations change and must either find new sources of capital to cover the cost of changes or face significant fines for violations.”¹⁶

Businesses on all levels of the supply chain need to comply with stringent requirements relating to product cultivation, manufacturing, testing, packaging, and sales. Each of these activities requires complex

¹⁶ Office of Congresswoman Nydia M. Velázquez. (2019, June 28). Chairwoman Velázquez Announces Bills to Open SBA Programs to Legal Cannabis Businesses [Press release]. <https://smallbusiness.house.gov/news/documentsingle.aspx?DocumentID=2712>



“At the level of the Federal Government, the EPA has historically been the biggest ally for small automotive repair businesses. From limiting hazardous chemicals paperwork/reporting for small auto businesses (conditionally exempt) to providing funding for training for small body shops to transition to water-based auto painting, the EPA has enabled small auto repair businesses to remain competitive with new car auto dealers and large franchise operations. Where the EPA’s involvement on behalf of small auto repair shops was most significant was during the transition by auto manufacturers of vehicle mechanical, air, and fuel systems to computer control, primarily to meet federal air quality standards as established by the Clean Air Act. Companies that marketed automotive computer control diagnostic tools and information products to the independent repair shops were threatened with lawsuits for violating intellectual property statutes. Only franchised new car dealers should/could have access to this proprietary emission tooling/information. Had the auto manufacturers been successful in limiting these repairs to their franchised dealers, there would no longer be an independent auto repair sector. The EPA ruled clean air standards trumped intellectual property rules (and the franchised dealers would never be able to meet the demand) so manufacturers were required to make public all emission-related diagnostic/repair information and source codes for diagnostic tooling.”

- Oregon Autoshop Owner

technology, and security to protect public health and prevent product diversion, all of which can be cost-prohibitive to small and minority businesses. According to a research report conducted by Babson College in 2016, 60 percent of respondents identified some level of difficulty in understanding and navigating government regulations and law; meanwhile, 80 percent of their respondents recognize the importance of technology to their operations, but have concerns about affordability.¹⁷

A 2020 survey of small businesses by the National Federation of Independent Business ranked environmental regulations (18), finding out about regulatory requirements (26) and obtaining licenses & permits (34), in the upper quartile of issues about which they are concerned.¹⁸ Moreover, in a recently released Cato Institute report on barriers to entry for startup businesses, its authors argue how businesses

17 Babson College. (2016). The State of Small Business in America. <https://www.babson.edu/media/babson/site-assets/content-assets/images/news/announcements/goldman-10ksb-report-2016.pdf>

18 Wade, H., & Heritage, A. (2020, July). Small Business Problems and Priorities (10th Edition). NFIB Research Center. <https://assets.nfib.com/nfibcom/NFIB-Problems-and-Priorities-2020.pdf>

of smaller sizes may be disproportionately affected by onerous federal and state regulations because they lack the necessary economies of scale to purchase the right equipment and enlist the necessary assistance to comply with regulations in a cost-effective and timely manner.¹⁹

While compliance can be cost-prohibitive, participants must comply. To that end, a federal framework must contemplate solutions reducing compliance hurdles for small and minority-owned businesses with increased access to regulatory and compliance tools. These could include solutions including, but not limited to, wraparound services and technical assistance to growers, manufactures, distributors, and storefront operators.

Furthermore, potential solutions should involve partnerships with state authorities to clarify regulations or extend timelines for compliance for small and minority-owned as well as other eligible businesses.



“Pest control is highly regulated due to the chemicals that we use. We need to submit regular reports to each county that we operate in, and for a small, family business, this can be challenging. There are multiple control boards that we report to quarterly across the state, and they all used to have different requirements, which sometimes meant weeks of work for my daughter and I to ensure we were reporting everything correctly. We still need to report to each county and board, but at least now they all ask for the same information — this cross-jurisdiction communication and coordination has really helped a lot.”

- California Pest Control Company Owner

¹⁹ Edwards, C. (2021, May). *Entrepreneurs and Regulations: Removing State and Local Barriers to New Businesses*. Cato Institute. <https://www.cato.org/policy-analysis/entrepreneurs-regulations-removing-state-local-barriers-new-businesses>

Exploring Meaningful Partnerships

OVER THE PAST YEAR, MANY LARGE COMPANIES have taken bold steps toward ameliorating historical injustices toward people of color. The cannabis industry must be just as bold in the action taken to reconcile the war on drugs.

In a recent example, Netflix pledged \$100 million to Black-owned financial institutions and programs that serve lower-income communities.²⁰ Lowe's announced a \$25 million commitment to



²⁰ Merced, M. J. (2020, June 30). Netflix Moves \$100 Million in Deposits to Bolster Black Banks. The New York Times. <https://www.nytimes.com/2020/06/30/business/dealbook/netflix-100-million-black-lenders.html>



“The private sector can serve as a major resource for small and minority-owned cannabis businesses under a federal regulatory framework.”

fund financial relief efforts for minority-owned businesses.²¹ Founders First Capital Partners, a San Diego-based investment firm, has committed \$100 million to a “Racial and Social Economic Equality Initiative” to offer financial assistance to historically underfunded Black entrepreneurs.²²

These businesses are not alone. Increasingly, the private sector sees minority-owned businesses as good business. The private sector can serve as a major resource for small and minority-owned cannabis businesses under a federal regulatory framework. Many keys to success outlined here – e.g., access to capital, regulatory compliance, mentoring, and other professional services – are best delivered through public-private partnerships.

The private sector is not the sole solution, federal policies and agencies should include incentives that ensure meaningful partnerships between large corporations and small and minority-owned businesses.

21 Lowe’s Companies. (2020, June 11). Lowe’s Opens Applications For The First Wave Of Its \$25 Million In Minority Small Business Grants [Press release]. <https://corporate.lowes.com/newsroom/press-releases/lowes-opens-applications-first-wave-its-25-million-minority-small-business-grants-06-11-20>

22 Grant, T. (2020, June 25). Founders First Capital unveils \$100m program for diverse-led businesses. Buyouts. <https://www.buyoutsinsider.com/founders-first-capital-unveils-100m-program-for-diverse-led-businesses/>

Conclusion



AS EARLY ADOPTERS OF LEGALIZED CANNABIS, intrastate systems have been the testing ground for a nationwide cannabis industry. The ascent of the industry is emblematic of American ingenuity and in the process set off a cultural revolution from Ontario to Johannesburg. However, the acute growth of the industry has highlighted the fault lines in the emerging industry, the most critical of which is the barriers facing small and minority-owned businesses.

The challenges are real for any business and are likely to be particularly pronounced for small cannabis businesses – small business provides more jobs in America and creates significant contributions to their communities – addressing today’s policies so that they don’t stymie success in the future will be critical to ensuring that small businesses – and all businesses have the necessary foundation of support to provide a safe and reliable experience, to be the on the front lines to protect youth and to create the resources and investments back into the communities where they live and work.

Fine-tuning legalization will be a complicated endeavor requiring massive stakeholder engagement, access to the best data and science, and ever-evolving best practices. This paper begins the discussion of how to get the right ecosystem of small and minority-owned businesses into a national cannabis economy. It will require a thoughtful regulatory structure that protects and builds small businesses and encourages minority ownership. While this paper is not exhaustive, it lays out a framework that nurtures opportunity, ownership, and empowerment for small and minority-owned businesses.