



STATE OF WASHINGTON

August 15, 2017

The Honorable Jefferson B. Sessions III
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530

Dear Mr. Attorney General:

Thank you for your letter dated July 24, 2017. We appreciate your taking the time to describe the Department of Justice's perspective and concerns regarding our state law treatment of marijuana. The State of Washington remains committed to only allowing marijuana activity within a tightly and actively regulated system that complements the federal government's law enforcement priorities. Like the Department of Justice, we want to discourage youth consumption, avoid dangers to public safety, and prevent the diversion of marijuana to other states.

We have twice requested an in-person meeting with you because we believe it will lead to better understanding than exchanging letters. Your letter, citing the March 2016 Northwest High Intensity Drug Trafficking Area (NW HIDTA) report on marijuana in Washington, makes a number of allegations that are outdated, incorrect, or based on incomplete information. If we can engage in a more direct dialogue, we might avoid this sort of miscommunication and make progress on the issues that are important to both of us. We therefore reiterate our request to meet with you, followed by further appropriate meetings between state and DOJ officials.

In the meantime, this letter will address some of the concerns raised in your letter. First, you raised concerns that "[T]he medical market [for marijuana] is considered 'grey' due to the lack of regulation and oversight." Importantly, NW HIDTA issued its March 2016 report shortly before Washington fundamentally changed its medical marijuana laws.¹ We agree that prior to 2016, medical marijuana in Washington was not well regulated or supervised and possessed many characteristics of a "gray market." This state of affairs was not compatible with the kind of well-regulated system that DOJ expects and that Washington had created for recreational marijuana. Our State Legislature responded by passing reform legislation which became effective in July 2016. We realigned medical marijuana to bring it within the state's far more stringent recreational system.

In fact, since you issued your letter, the NW HIDTA released a new 2017 report, making clear that "as of July 1, 2016, the long-standing illegally operating dispensaries were shut down or became licensed retailers; sales are now subject to taxation, and medical marijuana products now must pass strict packaging and testing requirements before being sold to patients." Your letter, relying on the old NW HIDTA report, ignores this important development.

¹ On August 3, 2017, NW HIDTA issued an updated report that does acknowledge Washington's new, more restrictive laws governing medical marijuana.

Second, your letter repeatedly fails to distinguish between marijuana activity that is legal and illegal under state law. Instead, it conflates the two in a manner that implies that state-legal marijuana activity is responsible for harms actually caused by illegal marijuana activity. For example, the NW HIDTA report describes in detail 17 explosions at THC extraction labs (March 2016 report, at 99-102). That is true. Your letter, however, fails to clearly acknowledge that none of these explosions were at labs operating legally under state license. Legal extraction labs are required to use equipment certified by an engineer, and to be inspected by the fire marshal. In the history of our licensing system, no legal extraction lab has ever had an explosion.

Similarly, the NW HIDTA report asserts that Washington marijuana has been diverted to “43 other states” (March 2016 report, at 94). Your letter, however, fails to acknowledge that this statistic covers several years before our recreational sales even began, and reveals nothing about whether the sources of the marijuana were legal or illegal. Again, our intent is for our state-regulated marijuana market to displace and destroy illegal marijuana activity. If the federal government has information it can share as to the sources of Washington marijuana being found outside our state, we would welcome the opportunity to discuss how we might be able to cooperate in controlling such sources.

Third, some of the statistics cited in your letter are simply incorrect, or based on a misreading of their context. For example, the statement “61.9% of drivers do not believe marijuana makes a difference in their driving ability” (March 2016 report, at 82) is not supported by its source. The study in question surveyed 893 drivers and found that 97 of them reported having previously used marijuana within two hours of driving. Sixty out of *those* 97 (61.9%, but representing only 6.7% of *all* drivers in the survey) thought it did not make a difference in their driving ability. NW HIDTA chose not to include this statistic in its new 2017 report.

Additionally, several of the statistics quoted in your letter on the increasing incidence of marijuana DUIs are distorted by the fact that the testing regime has changed with state legalization. Any amount of drugged driving and collisions is too high. Prior to marijuana legalization, blood testing for THC at suspected DUI traffic stops was substantially less common. Consequently, comparable statistics do not exist.

We disagree with a number of other conclusions in your letter. Rather than try to explain each of them here, however, we again respectfully request the opportunity to engage in an active discussion with you and your agency. Additionally, we would like to discuss the following:

- Whether DOJ intends to follow recommendations from its Task Force on Crime Reduction and Public Safety—in particular, its reported recommendation to continue previous federal policy on state legalization of marijuana.
- Whether President Trump’s previous statements of support for medical marijuana, and leaving recreational marijuana legalization to the states, represent the policy of the federal government.
- Whether DOJ will support reasonable federal policies allowing financial institutions to provide service to licensed marijuana businesses, in order to avoid the public safety risks and transparency problems associated with all-cash businesses.
- How state-regulated marijuana should be treated by the federal government following the President’s declaration that the opioid crisis constitutes a national emergency, and whether

the federal government will support objective, independent research into the effects of marijuana law reform on opioid use and abuse.

- Whether the federal government will help protect public health by supporting agricultural research on the safety of pesticides used in marijuana cultivation.
- Whether the federal government will support research into expedited roadside DUI testing methods for law enforcement, as alternatives to blood draws.

We also would like to offer you another source of information and data as to how our regulatory system is working. We invite you to review the enclosed publication, *Marijuana Legalization in Washington State*. It describes how our state's regulatory system is designed specifically to meet the DOJ's Cole Memorandum guidance and promote the enforcement priorities that we share with DOJ.

While Washington has been largely successful, challenges remain. As issues become apparent, Washington continues to refine and improve our laws. Just a few days ago, a new statute took effect that further restricts marijuana advertising, prohibiting advertisements targeting youth or persons outside of the state.

Finally, we encourage you to keep in mind why we are having this conversation. State and federal prohibition of marijuana failed to prevent its widespread use, which was generating huge profits for violent criminal organizations. The people of Washington State chose by popular vote to try a different path. Under Washington's system, responsible adults are allowed access to a highly regulated product that returns substantial tax revenues to the government even as it displaces illegal activity. As we implement this system, we will continue striving to deter youth consumption, promote public safety, and fight interstate diversion. Our state's government and law enforcement are committed to the goals you have articulated, and to good faith cooperation and coordination with the Department of Justice as we work to serve the public and defend the will of the people.

Sincerely,



Jay Inslee
Governor



Bob Ferguson
Attorney General

Enclosure



Washington State Liquor and Cannabis Board



Marijuana Legalization in Washington State

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Liquor and Cannabis Board**

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Washington State Liquor and Cannabis Board

June, 2017

On November 12, 2012, Washington State voters enacted Initiative 502 regarding “marijuana reform” by a margin of 56 percent to 44 percent. By doing so, Washington and Colorado became the nation’s first two states to decriminalize the possession of limited amounts of marijuana and establishing a system for legally producing, processing, and retailing marijuana.

I-502 tasked the then-named Washington State Liquor Control Board to be primary agency for creating the regulatory framework that would govern Washington’s system. The agency was chosen by the initiative drafters because it was based on Washington’s alcohol regulatory structure, a system the agency has regulated for over 80 years. While the agency’s experience with alcohol proved critical over time, there was no blueprint for creating a regulatory system that was federally illegal and subsequently lacking research and resources.

Washington’s system is centrally based on the guidance provided by a federal Department of Justice memo issued in August 2013. The so-called Cole Memo outlines eight enforcement guidelines that specifies the federal government’s interest in states that have legalized marijuana. Those eight guidelines can be further narrowed to three public safety themes: preventing youth access to marijuana, preventing the criminal element from participation in the system, and preventing diversion of product out of state.

Washington’s system continues to evolve and mature since the passage of I-502. State laws have reigned in the unregulated medical marijuana marketplace to align with the tightly regulated recreational market, new restrictions on advertising will lessen youth exposure, and the former Liquor Control Board is now named the Liquor and Cannabis Board to better represent the breadth of products under our purview. And, in April 2017, regulators from states that have legalized recreational marijuana – Washington, Oregon, Alaska, and Colorado – met for the first time to discuss common issues and to make plans for collaboration in the future.

While Washington has been successful in meeting the terms of the Cole Memo, tightly regulating a marketplace, and generating needed revenue for the state, challenges remain. Most importantly, marijuana remains a Schedule 1 controlled substance by the federal government. The determination affects all aspects of state systems, from banking to research to consumer safety.

It is our hope that this publication will provide an informative snapshot of Washington’s system today. Washington is a pioneer and national leader in many industry sectors, and the marijuana sector is among the latest where our state can be an example.

Sincerely,

Jane Rushford
Board Chair

Ollie Garrett
Board Member

Russ Hauge
Board Member

Rick Garza
Director

Washington State Marijuana Legalization Timeline

1998

Medical Marijuana Initiative (I-692)

- Initiative 692: Created an affirmative defense to the violation of state laws relating to marijuana usage and possession for medicinal purposes.
- Qualifying patients or their designated primary caregivers may establish the defense if they possess only the amount of marijuana necessary for their personal use, up to a 60-day supply, and if they present valid documentation from a physician to law enforcement officers.

2011

Senate Bill 5073

- Senate Bill 5073: Established a regulatory system to license the production and distribution of marijuana intended for medicinal use.
- Many portions of the bill were vetoed because of concerns regarding potential federal prosecution of state employees involved with the system.
- The authorization for patient home grows and collective gardens was not vetoed, and that provision gave rise to the statewide expansion of an unregulated gray market.

2012

Initiative 502

- Established a comprehensive regulatory structure for the licensing and taxation of marijuana production, processing and retail access.
- Authorized possession of marijuana for personal use for persons age 21 and older:
 - o 1 ounce of useable marijuana;
 - o 16 ounces of marijuana in solid form;
 - o 72 ounces in liquid form;
 - o 7 grams of marijuana concentrate.

2016

Alignment of Medical and Recreational Markets

- Per the 2015 Cannabis Patient Protection Act (SB 5052), the largely unregulated medical marijuana system (gray market) aligns with the tightly regulated, state-licensed recreational market on July 1, 2016.
- Medical patients access the products that they want through multiple channels
 - o Medically endorsed retail stores
 - o Four-member co-ops registered with the WSLCB
 - o Homegrown (Authorized patients may grow a limited number of plants at home)



*Department of Justice Deputy
Attorney General James Cole*

Photo Credit: WND

Federal Enforcement Guidelines

In August 2013, Department of Justice Deputy Attorney General James Cole issued what is now known as the “Cole Memo.” The Cole Memo outlines the federal government’s enforcement interest in states that have legalized marijuana.

These guidelines are separate from Washington State enforcement regulations and are enforced at the discretion of the US Department of Justice.

Eight Guidelines:

- 1 Preventing distribution to minors;
- 2 Preventing the revenue from going to criminal enterprises, gangs and cartels;
- 3 Preventing the diversion of marijuana from states where it is legal to other states;
- 4 Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- 5 Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- 6 Preventing drugged driving and other adverse public health consequences associated with marijuana use;
- 7 Preventing the growing of marijuana on public lands and the environmental dangers posed by marijuana production on public lands;
- 8 Preventing marijuana possession or use on federal property.

Elements of I-502

Initiative 502 was written to reduce the amount of law enforcement resources used on adults who use marijuana and redirect them towards bigger threats facing Washington's communities. To achieve this, a tightly regulated system was created to reduce the illicit market, take money away from criminal enterprises and generate tax revenue for state and local governments.



Agency Objective

- Create a tightly controlled and regulated marijuana market that reduces youth access and limits the black market.

Key Elements of the Initiative

- Establish a legalized system of producing, processing and retailing marijuana for adults age 21 and older.
- Decriminalizes possession of one ounce of marijuana:
 - One ounce of useable marijuana (flower);
 - Seven ounces marijuana concentrate/extract for inhalation;
 - 16 ounces in solid form; and
 - 72 ounces in liquid form.
- Creates three-tier system of licensing, regulation and taxation similar to alcohol:
 - Producer license (grower);
 - Processor license (prepares for retail); and
 - Retail license (marijuana only stores).
- Taxation:
 - Imposes excise tax rate of 37 percent on final marijuana sales.
- Public Safety and Education:
 - Establishes a THC bloodstream threshold for marijuana DUI's;
 - 21 and older – 5.0 nanograms;
 - Under 21 – 0.0 nanograms;
 - Limits on store locations, advertising and number of outlets to reduce exposure;
 - Prohibits public display/consumption of marijuana;
 - Prohibits home growing marijuana for recreational consumers; and
 - Earmarks revenue for healthcare, research and education.

State Government Funding

I-502 earmarked revenue for health and education resources. In 2016 the law was amended to allow the legislature to direct distribution amounts and recipients (recipients remain unchanged).

Key WSLCB Regulations

While the law itself provides the framework for Washington’s system, the details are found in the regulations. The state’s rules are crafted to meet the terms of the Cole Memo. They are constantly being modified to strike the balance between public safety and business needs of a maturing industry sector.

Estimated Net to Distribute		\$165,100,000	\$288,300,000
Agency	For	FY 16	FY 17
Dept. of Social and Health Svcs.	Prevention and reduction of substance abuse	\$12,814,000 (8.2 percent)	\$27,786,000 (10.7 percent)
Dept. of Health	Marijuana education and public health program	\$7,500,000 (4.8 percent)	\$7,500,000 (2.9 percent)
University of Washington	Research on short- and long-term effects	\$207,000 (.13 percent)	\$207,000 (.08 percent)
Washington State University	Research on short- and long-term effects	\$138,000 (.09 percent)	\$138,000 (.05 percent)
	Basic Health Trust Fund Account	\$79,750,000 (50 percent)	\$141,330,000 (50 percent)
WA Health Care Authority	Contracts with community health centers	\$7,791,000 (3.4 percent)	\$12,979,000 (4.8 percent)
Supt. of Public Instruction	Drop-out prevention	\$251,000 (.16 percent)	\$511,000 (.2 percent)
General Fund		\$51,048,900 (33 percent)	\$92,208,564 (31 percent)

Licensing Regulations

- All licensees must meet strictly controlled on-site security requirements:
 - Strict surveillance and transportation requirements; and
 - Robust traceability software system that tracks inventory from start to sale.
- Criminal history investigation:
 - All parties, including spouses; and
 - FBI background checks.
- Financial background check on all licensees:
 - Identifies source of funds.
- Residency investigation:
 - Applicants must be state residents for at least six months.
- Tough penalty guidelines for public safety violations including loss of license.
- Restricting certain advertising that may be targeted at children.
- Property must be more than 1,000 feet from: schools, child care centers, transit centers, game arcades, libraries, playgrounds, public parks:
 - With the exception of elementary and secondary schools and playgrounds, local jurisdictions may allow by ordinance a reduction in the 1000-foot buffer zone to a minimum 100 feet.

Consumer Safety Regulations

WSLCB regulations provide a heightened level of consumer safety than has previously existed.

- Packaging and label requirements including serving size and warnings;
- Child-resistant packaging for marijuana in solid and liquid forms;
- All products lab tested;
- Defined serving sizes and package limits;
- Store signage requirements to educate customers; and
- Partnered with the Washington State Department of Agriculture to establish a lab dedicated to WSLCB testing priorities.

Retail Marijuana Packaging, Labeling and Advertising Requirements

- All marijuana infused products must be approved by a panel of WSLCB staff to determine if the product and/or packaging is especially appealing to children;
- Processors are limited in the types of food or drinks they may infuse with marijuana to create an infused edible product;
- Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana;
- All commercial kitchens for edible products must first be approved by the Washington State Department of Agriculture;
- Marijuana-infused products that are especially appealing to children, such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.

Pesticide Testing Lab

Testing for pesticides is complex and costly. Laboratories need specialized equipment and highly-trained scientific staff to perform the tests. In 2016, the WSLCB partnered with the Washington State Department of Agriculture (WSDA) to test for illegal pesticides on marijuana.

The WSLCB purchased the specialized equipment for WSDA to test for pesticides and provided initial and ongoing funds for two WSDA employees and costs of operations. WSDA's lab will be dedicated to pesticide testing for the WSLCB.

Marijuana Servings and Transaction Limits

- 10 milligrams of active THC, or Delta 9, equals a single serving of a marijuana-infused product.
- The maximum number of servings in any one single unit of marijuana-infused product is 10 servings or 100 milligrams of active THC, or Delta 9

Not for Kids Warning Symbol

The "Not for Kids" warning symbol was developed by the Washington Poison Center as a deterrent for children who may access adult-only products, such as edible marijuana products, purchased by adults in their home. The WSLCB requires all edible products carry the symbol on the main display area of the package.

Seed to Sale Traceability System



Tracking the marijuana industry requires a robust and comprehensive software system that traces product from start to sale. Licensees must report significant milestones and changes to the LCB's traceability system which allows the LCB to monitor and track any plant or product at any time. LCB enforcement can match records to actual product on hand. Accurately tracking licensee transactions and products is a major public safety component of Washington's regulatory system.



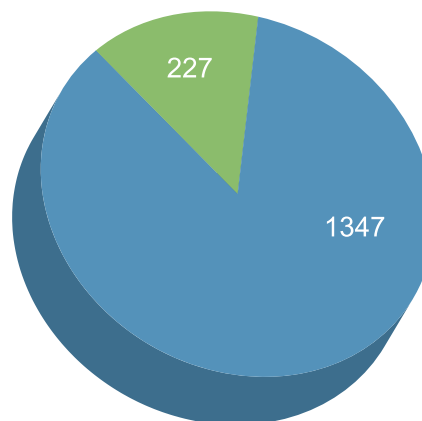
Public Safety

Public safety is the WSLCB's primary mission. In addition to a robust regulatory structure, the Board uses a variety of mechanisms to ensure public safety. These include compliance checks, unannounced premises inspections, and a comprehensive traceability system to monitor products.

Compliance Checks

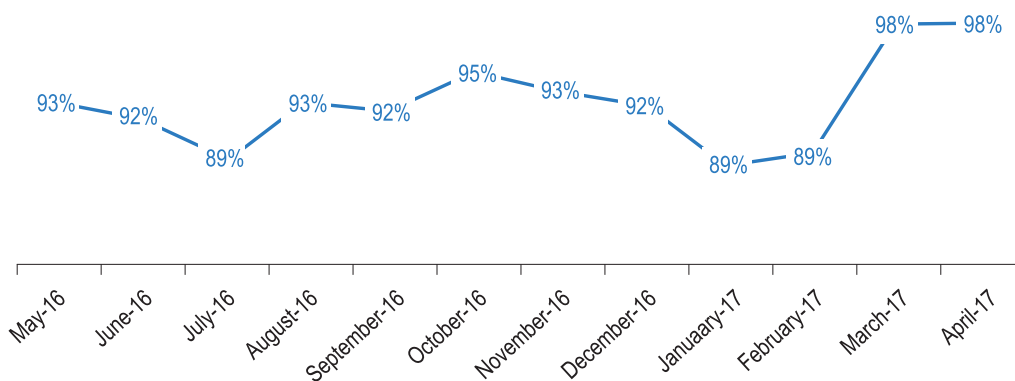
The WSLCB conducts compliance checks, using an underage investigative aide to attempt purchase of marijuana retailers. Compliance checks are a proven tool to reduce underage access. Marijuana retailers have a 91 percent compliance rate, which compares favorably to the 83 percent compliance rate in the alcohol industry.

Total Compliance Check Results (since July 2015)



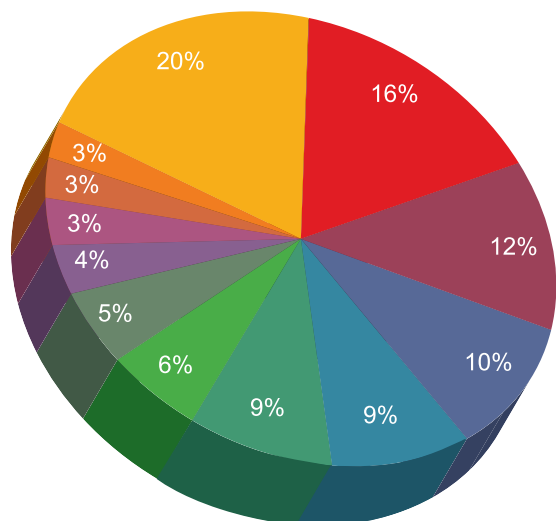
- Marijuana Compliance Check - No Sale
- Marijuana Compliance Check - Sale

MARIJUANA COMPLIANCE RATE



Marijuana Retailer Compliance Check Pass Rate by Month

Total Marijuana Violations by Type (since July 2015)



- Failure to utilize and/or maintain traceability.
- Failure to maintain required security alarm and surveillance system (producer).
- Sale of marijuana and/or paraphernalia to a person under 21 years of age.
- Failure to utilize and/or maintain traceability (processor or retail licensee).
- Allowing a minor to frequent a restricted area.
- Operating plan: Violations of a board-approved operating plan.
- Advertising: Violations (statements/illustrations).
- Failure to submit monthly tax reports and/or payments.
- Failure to maintain required security alarm and surveillance systems (processor and retail).
- Violation of transportation requirements.
- Licensee/employee failing to display required security badge.
- Other.

Public Safety Partnerships

The WSLCB's number one priority is public safety. In addition to enforcing marijuana laws and regulations at licensed businesses, the agency works closely with local law enforcement agencies to illegal grow operations.

Prior to the July 1, 2016 alignment of the tightly regulated recreational market with the unregulated medical market, the WSLCB teamed with county prosecutors, local law enforcement and other state agencies to ensure a smooth transition.

Preparations in place for July 1 alignment of medical and recreational marijuana systems

State and local government communicating in advance of deadline

OLYMPIA – Preparations made by state agencies, local government, law enforcement and prosecutors will help further a smooth merger of the unregulated medical marijuana market with the tightly regulated recreational system on July 1, 2016.

Representatives from the state Department of Health (Health), the state Liquor and Cannabis Board (WSLCB), the state Departments of Revenue, Agriculture, Financial Institutions as well as the state Attorney General's Office, state Treasurer, and Washington State Patrol have met regularly to communicate and prepare. In addition, representatives of the Washington State Association of Sheriffs and Police Chiefs, the Association of Washington Cities, and the Washington State Association of Prosecutors recently joined the conversations about coordinating plans before and after July 1.

Liquor and Cannabis Board Enforcement Officers seize marijuana from illegal grow in Tacoma

OLYMPIA – Washington State Liquor and Cannabis Board officers served a search warrant April 14, 2017 on a Tacoma residence that was growing marijuana without a license. The illegal grow was located at 5018 North 9th Street, Tacoma WA, less than three blocks from Wilson High School.

LCB Enforcement officers identified and seized 438 plants, nearly half of which were within days of harvest, dried flower, approximately five pounds of bubble hash, and other marijuana products being processed for sale. In addition to the marijuana products officers seized clones, grow lights, ballasts, fans, and a firearm with the serial number filed off.



Marijuana seized as evidence.



WSLCB officers seizing plants from an illegal marijuana grow site.



WSLCB evidence storage facility.



Local power utility addressing power theft at an illegal marijuana grow.

System Today

Washington's tightly regulated marijuana market is a billion dollar industry generating hundreds of millions of dollars in state revenue. Sales and revenue continue to rise, exceeding economic forecast projections. Revenues are allocated to dedicated accounts, including health, education, and prevention efforts. Encouragingly, Washington youth consumption rates have remained the same or declined despite marijuana decriminalization.

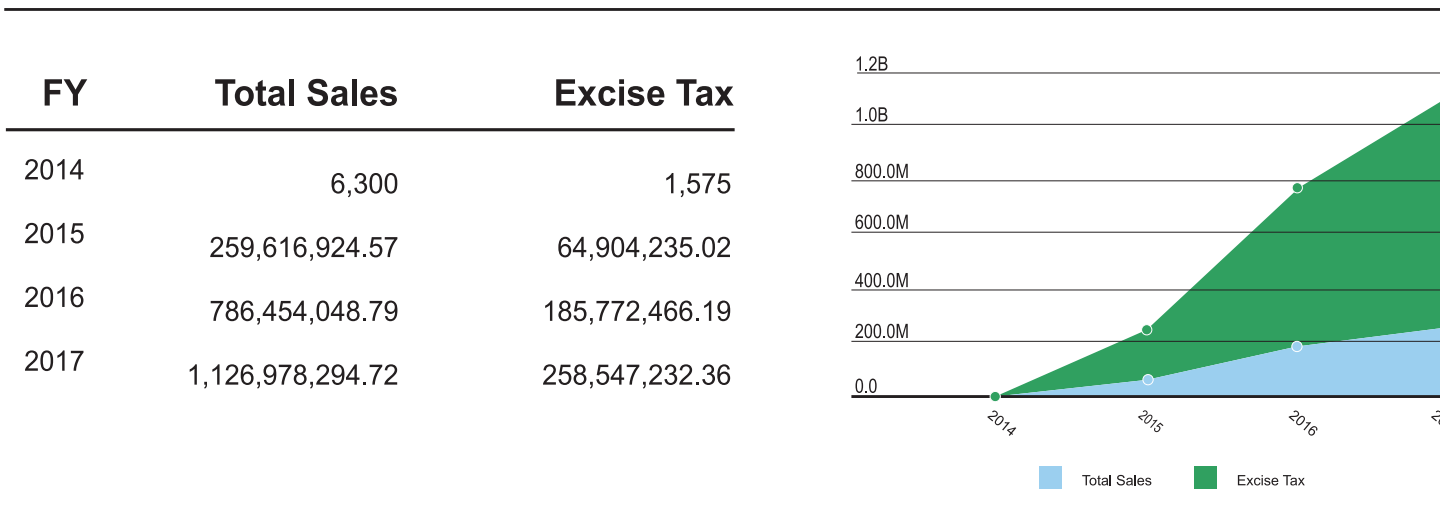
Sales

All retail licensees are required to remit an excise tax of 37 percent on all taxable sales of marijuana, non-retail sales are not taxed. Excise tax generated is distributed to public health, education and regulation efforts.

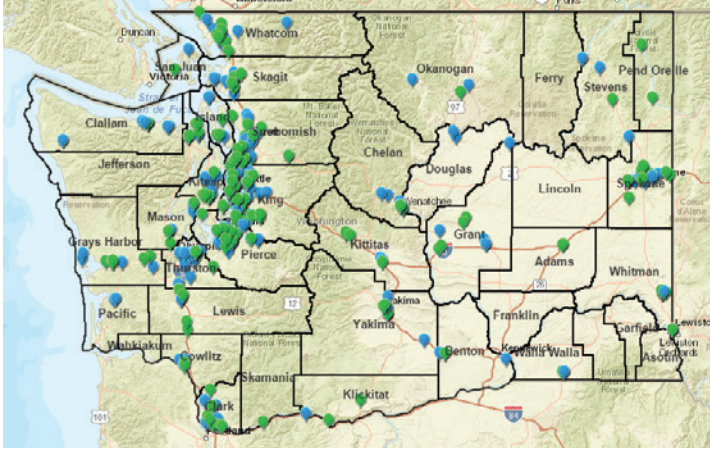


Enforcement officers work closely with licensees to ensure regulations are followed.

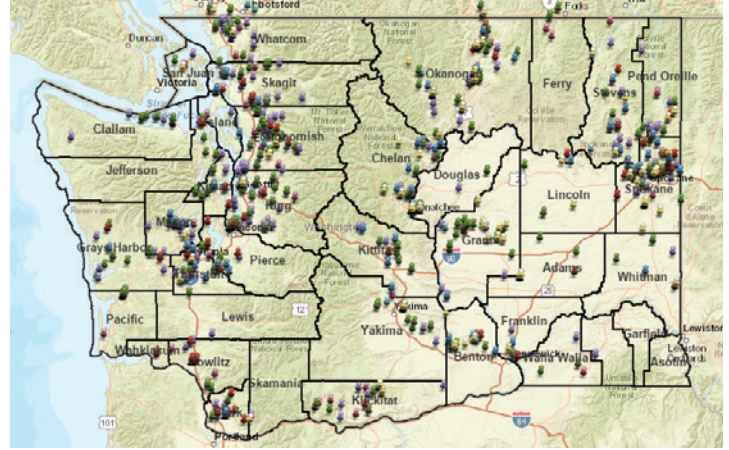
Marijuana Sales and Excise Tax (2014-2017)



Marijuana Legalization in Washington State

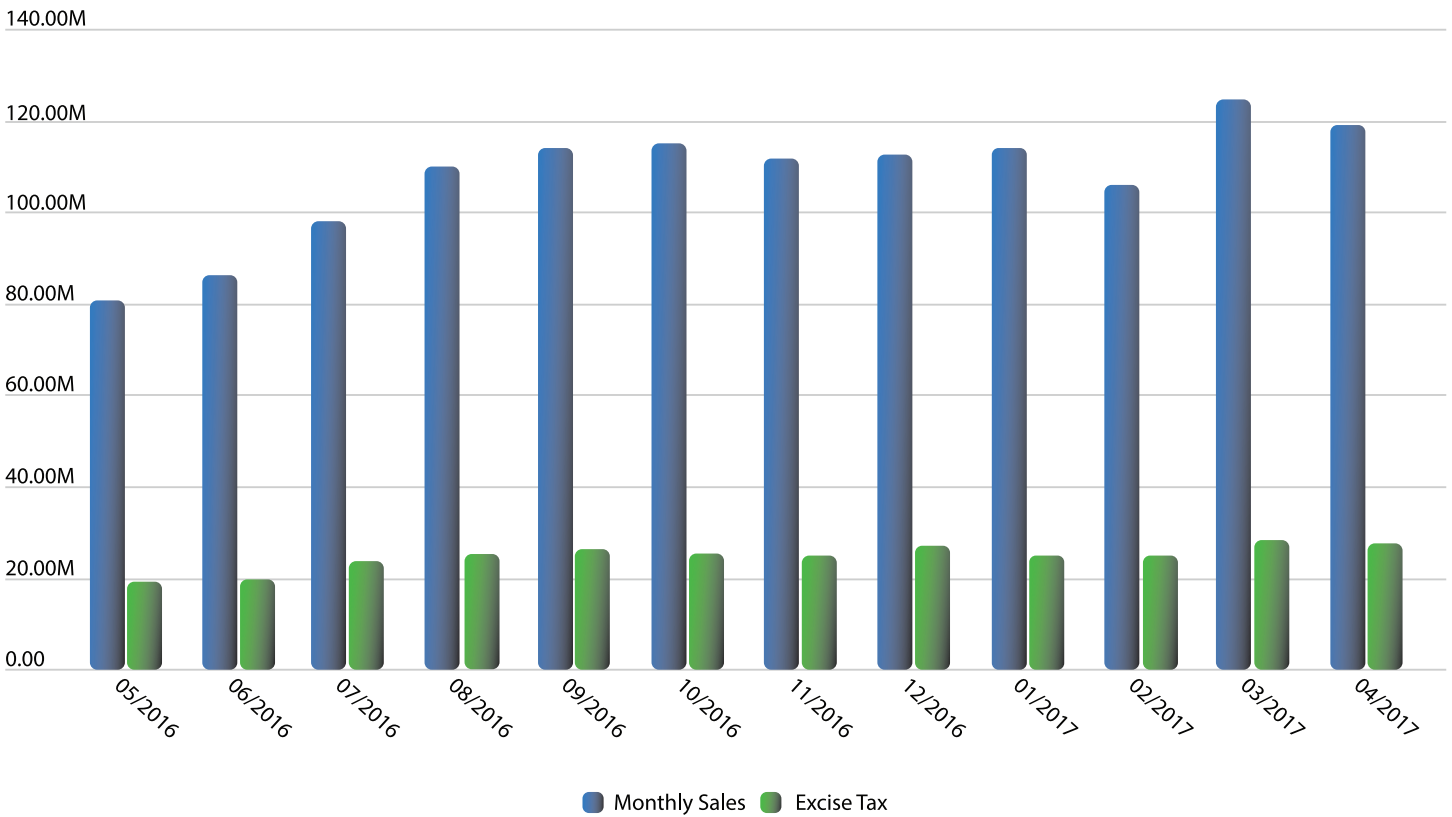


505 Retail locations (as of 6/12/17)



1328 Producers and Processors (as of 6/12/17)

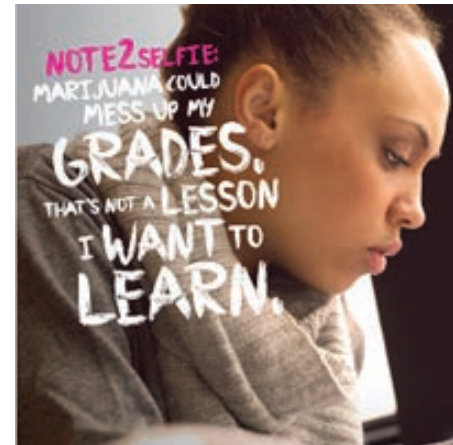
Marijuana Sales and Excise Tax (over last 12 months)



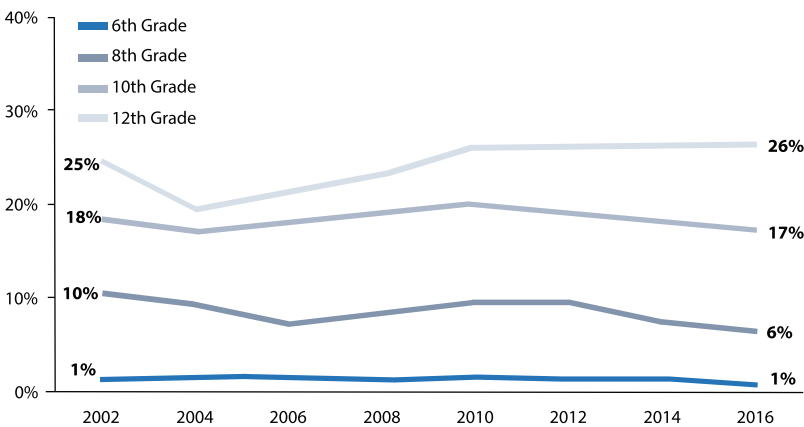
Healthy Youth Survey: Youth Marijuana Use

The Healthy Youth Survey is taken every two years by students in grades 6, 8, 10, and 12 in almost 1,000 public schools in Washington. More than 200,000 youth took part in the most recent survey by answering a wide variety of questions about their health and health behaviors.

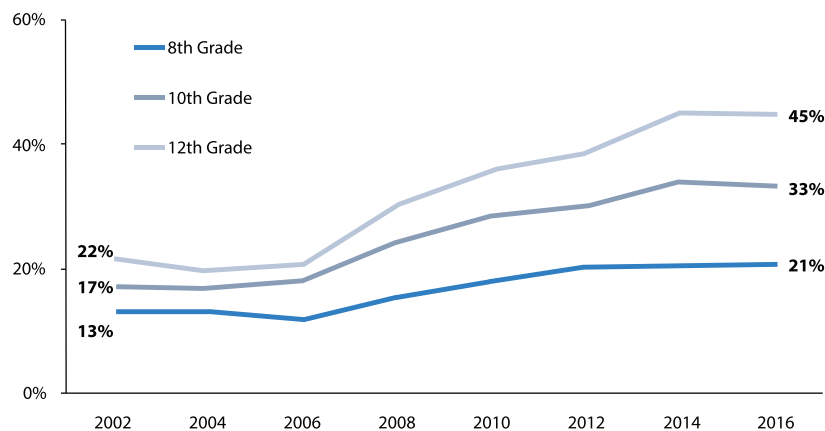
- Based on the WA State Healthy Youth Survey, rates of youth marijuana use have remained mostly steady since legalization in 2012.
- Perception that regular use of marijuana has “no risk” or “slight risk” increased.



Used marijuana during the past 30 days



Regular use of marijuana has “no risk” or “slight risk”



Prevention

Prevention and education efforts are critical to keeping youth use rates low and because advertising exposure increases where marijuana is legal. At the same time, promoting responsible adult use aids in preventing other adverse health effects such as drugged driving, poisonings, etc.

Marijuana excise tax revenues have contributed to expanded resources for both the Departments of Health and Social Health Services, including:

- Increased support for and expansion of community- and school-based services for youth prevention and education;
- Training in research-based prevention and treatment programs;
- Prevention and treatment grants to Tribes;
- Media-based educational campaigns;
- Drugged driving prevention media campaigns;
- Increase in youth treatment services;
- Expansion of a substance abuse hotline; and
- Development of resource materials for distribution.

Native American Tribes and Marijuana

In October 2014, the United States Department of Justice (USDOJ) issued a follow-up memorandum to the Cole Memo. In that memo, Director for the Executive Office for United States Attorneys Monty Wilkinson wrote that the USDOJ will reserve the same enforcement priorities found in the Cole memo, within Indian Country.

In 2015, a new state law authorized the Governor to enter into agreements with federally recognized Indian tribes concerning marijuana. The WSLCB was delegated the power to negotiate the agreements. Any marijuana agreement relating to the production, processing, and sale of marijuana by the tribe, whether for recreational or medical purposes, must address the following issues:

- Preservation of health and safety;
- Ensuring the security of production, processing, retail and research facilities; and
- Cross-border commerce in marijuana.

All compacting agreements must include a tribal marijuana tax equal to 100 percent of state and local taxes on sales of marijuana to any non-tribal persons or entities.

Since the authorizing legislation four compacts been reached between the state and tribes: the Suquamish Tribe, the Squaxin Island Tribe, the Puyallup Tribe and the Muckleshoot Tribe. As of May 2017, ten additional tribes have inquired about the process or requested negotiations for compacts.



Four compacts have been reached between the state and Washington tribes.

Current Challenges

Washington State navigated uncharted territory in developing the state's marijuana regulatory system. Despite the many challenges it faced, the system today is working.

Two goals of Initiative 502 were to tightly regulate marijuana while eliminating the illicit market to generate needed revenue for the state. At last estimate, the marijuana industry has largely transformed from an illicit market enterprise to a legal functioning industry that has generated over \$500 million in revenue since July 2014. Over 30 states and nations have visited Washington to learn about our system as well as learn from our experience.

While Washington has been largely successful, challenges remain. Looking ahead, the below challenges present obstacles to public safety, youth exposure and continued inroads into eliminating the illicit market.

Federal Law

Although the Cole Memo and the Wilkinson Memo outline USDOJ's enforcement priorities, federal law does not change. Marijuana remains a Schedule 1 controlled substance at the federal level. The Schedule 1 designation restricts or prohibits many important services that are available to other industries. For example:

- Federal banking laws prevent marijuana businesses from opening accounts. Without access to banks, many businesses must operate on a cash-only basis.
- A number of federal agencies provide research and guidance to agriculture sectors. There is virtually no federally-funded research on marijuana crops and the use of pesticides due to marijuana Schedule 1 designation.
- Without a change in law, there is significant uncertainty surrounding federal enforcement priorities. I-502 created the opportunity for marijuana businesses to operate within a tightly regulated system, pay taxes, and conduct business with transparency. Yet, the industry faces the threat of federal prosecution at any time.



WSLCB and Dept. of Agriculture Pesticide Testing Facility in Yakima, WA.



Recreational marijuana retail environment.

Advertising

Advertising violations are the most commonly received complaints to the WSLCB. Despite steady communication with industry members, enforcement officers spend an inordinate amount of time addressing advertising violations. Enforcing marijuana advertising restrictions is more appropriately handled at the local level.

Bans and Moratoria

In 2015 Washington State Attorney General Robert Ferguson issued an official Attorney General's Opinion stating that because I-502 was silent on bans and moratoria of marijuana businesses, local governments have the option of banning marijuana businesses within their jurisdiction. Later the courts agreed and upheld local bans. Today there are roughly 59 bans and 17 moratoria statewide. This patchwork of bans and moratoria furthers the ability of the illicit market to continue in places where there are not legal avenues available.



Banking services remain limited for marijuana licensees.



Marijuana billboard in Washington State.

Washington State Liquor and Cannabis Board

Mission

Promote public safety and trust through fair administration and enforcement of liquor, tobacco and marijuana laws.

lcb.wa.gov