

Emerging Issues: Autonomous Vehicles and Marijuana and Opioid Use

CARe Emerging Issues 2

Brooklyn

June 5, 2018



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Marijuana
2018 CAS Seminar on Reinsurance
June 5, 2018
Brooklyn, NY

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Marijuana Agenda

Introduction

Legal / Regulatory Considerations

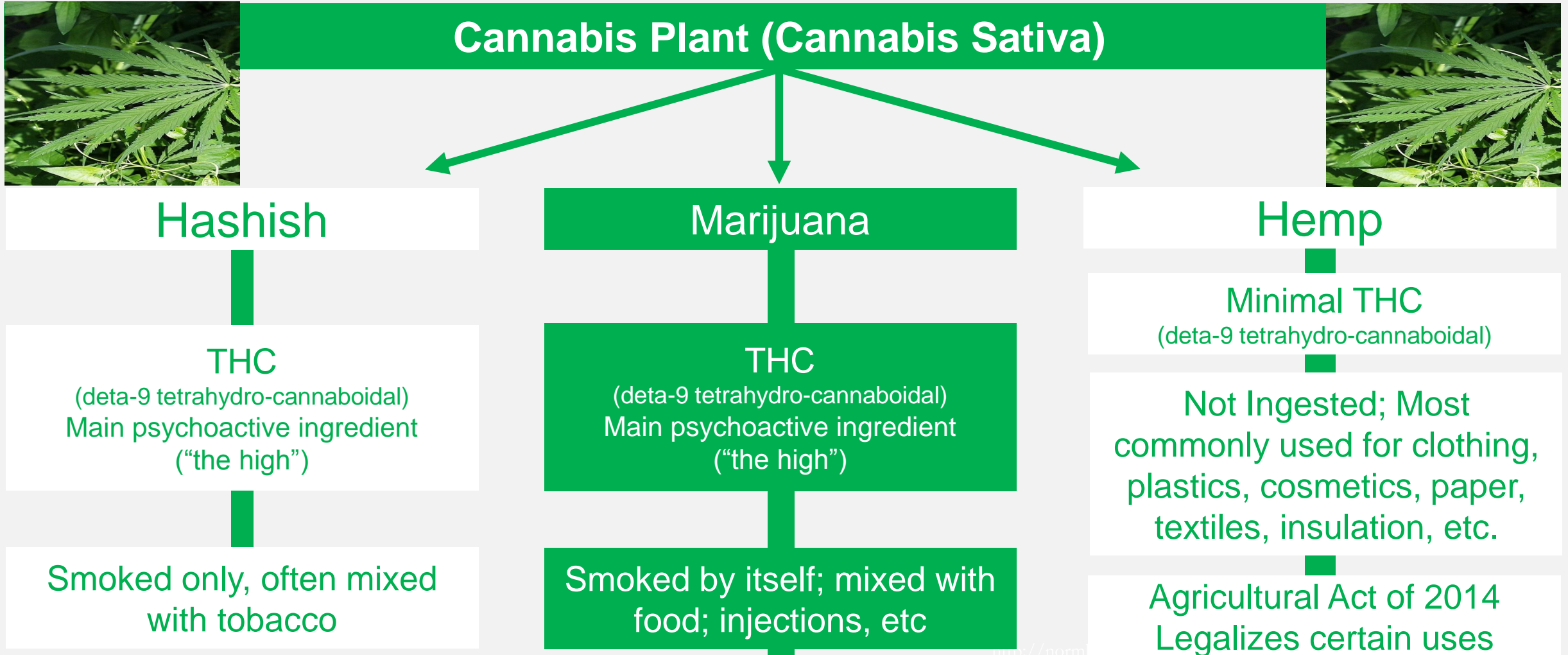
Insurance Implications

Closing Thoughts



Introduction

What it is



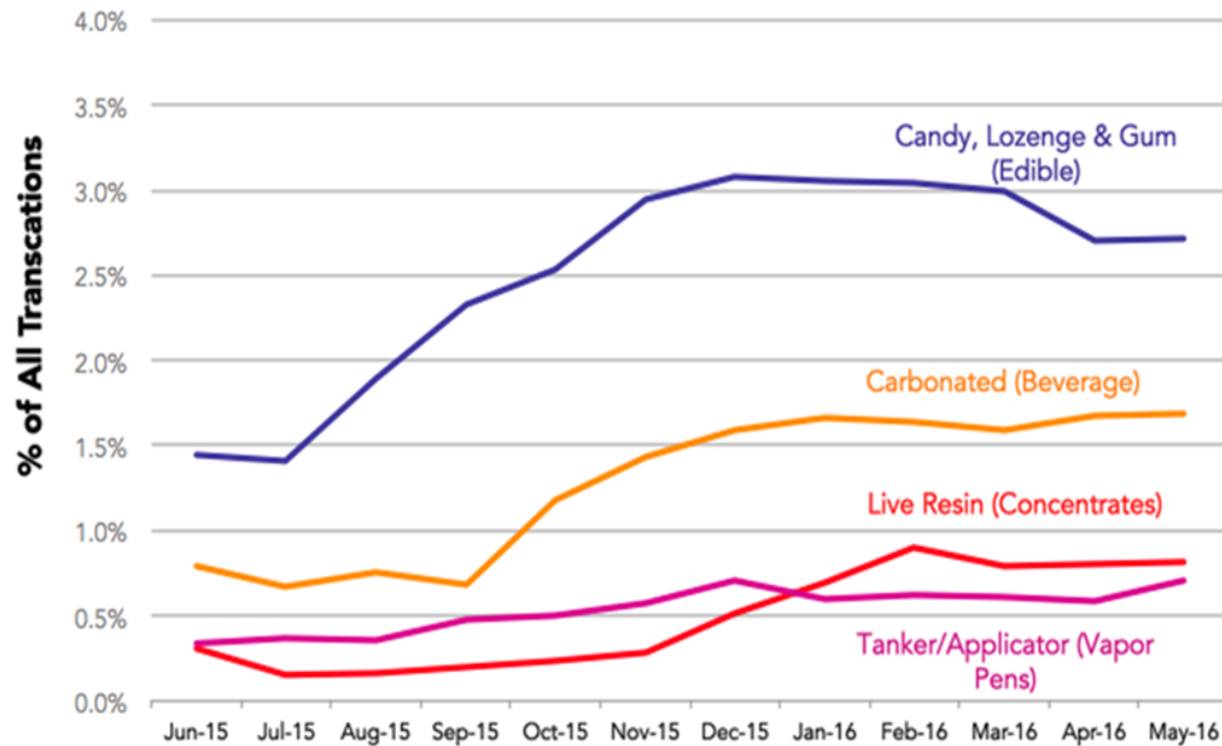
Cannabinoid (CBD): Cannabinoid Found in Cannabis that does not produce Psychoactive Effects

What it is

Marijuana Versatility

Which Products Are Becoming More Popular?

Less traditional products are accounting for a large % of Transactions



Note: Data via [Headset Inc.](http://headset.io/)

<http://headset.io/>

Multiple Ways of ingesting Marijuana make it highly attractive for both Medical and Recreational use

- Smoked/Vaped (flower)
- Beverage
- Eaten (Candy, Lozenges, Brownies, Cookies, etc)

Noted Benefits/Positives (Not Universally Accepted)

....THC and CBD

Medical Value Reported

Multiple conditions, including:

Stress, anxiety, migraines, PTSD, chronic pain, glaucoma, etc

Neurodegenerative diseases such as:

- Alzheimers
- Multiple Sclerosis
- Cerebral Palsy
- Epilepsy
- Parkinson's

Food & Drug Administration
Has not been engaged due to illegal status under Federal law

However

World Health Organization (11/17 Report):
Cannabinol (CBD) which represents 40% of the Plant's extract is "generally well tolerated with a good safety profile".
In 2018 will study (THC) in depth

Autism Research

Cancer/HIV

- Increase appetite
- Treats side effects of treatments – pain; nausea; vomiting;

Economic Benefit Reported

Marijuana.. Next Mega Industry

- 2016 - \$7.2bb total sales
- 2025 ~ \$24bb (assuming no new states)

Creating Jobs (May Overtake manufacturing Jobs by 2020)

- 2017 – ~100.000 to 150,000 jobs; 2020 - ~ 283,000

Tax Revenue.... The Key:

- 2017 - \$655mm (Retail Sales Only)
- 2017 Tax Reform – May Prompt more states with high income/property taxes to look at Marijuana Tax Benefit

Projections :

- \$132b Taxes from 2017-2025 if Legalized Nationally
- 1mm Jobs by 2025 if Legalized Nationally
- CA – 2018 (1st Yr of Rec.) \$643m Taxes projected (LA Times 1/10/18)

<https://finance.yahoo.com/news/frontier-data-u-cannabis-market-133832469.html>

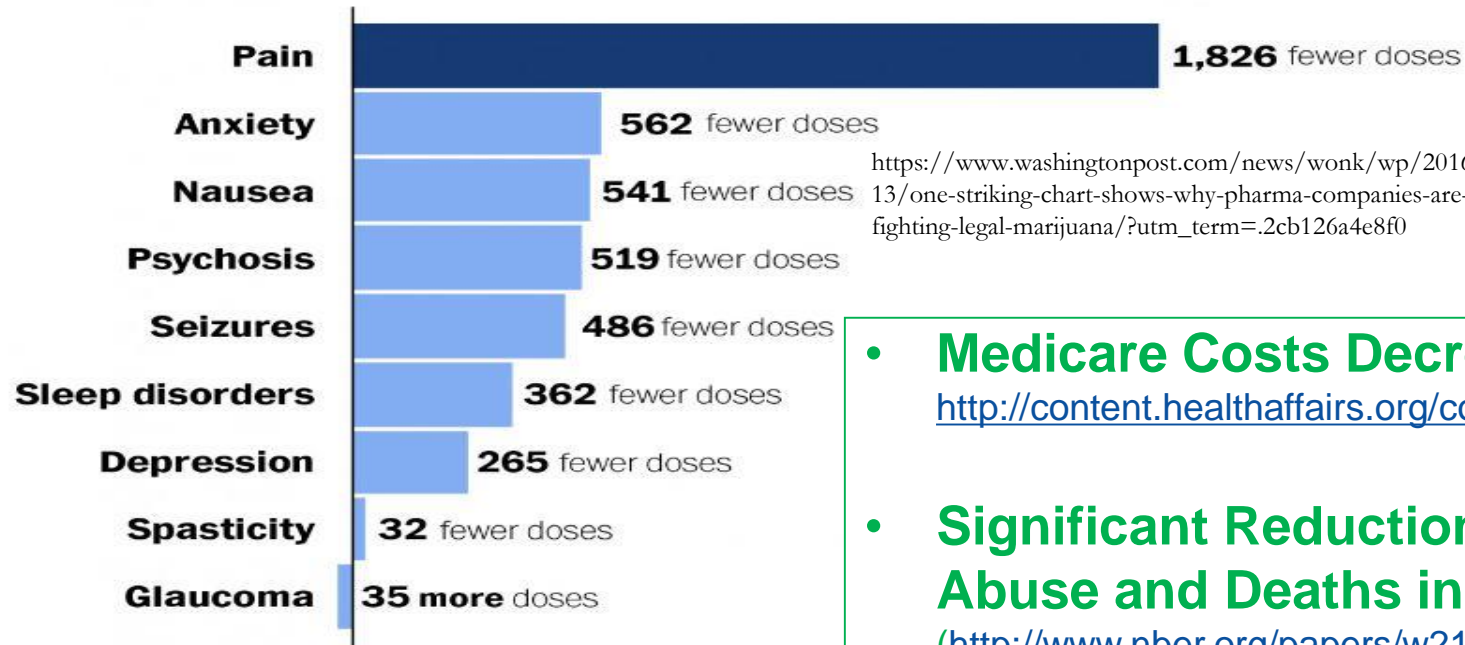
<https://www.forbes.com/sites/debraborchardt/2017/04/11/1-billion-in-marijuana-taxes-is-addicting-to-state-governors/>

https://www.washingtonpost.com/national/2018/01/10/study-legal-marijuana-could-generate-more-than-132-billion-in-federal-tax-revenue-and-1-million-jobs/?utm_term=.7115bc662769

Pharmaceutical Industry...Marijuana Reduces Use of Prescription Narcotics

Fewer pills prescribed in medical pot states

Difference between annual drug doses prescribed per physician in medical marijuana states, and in states without medical marijuana laws, by drug category



https://www.washingtonpost.com/news/wonk/wp/2016/07/13/one-striking-chart-shows-why-pharma-companies-are-fighting-legal-marijuana/?utm_term=.2cb126a4e8f0



- **Medicare Costs Decreased** (U. of Georgia Study - <http://content.healthaffairs.org/content/35/7/1230.abstract>)
- **Significant Reduction in Prescription Painkiller Abuse and Deaths in States with Medical Marijuana** (<http://www.nber.org/papers/w21345>)

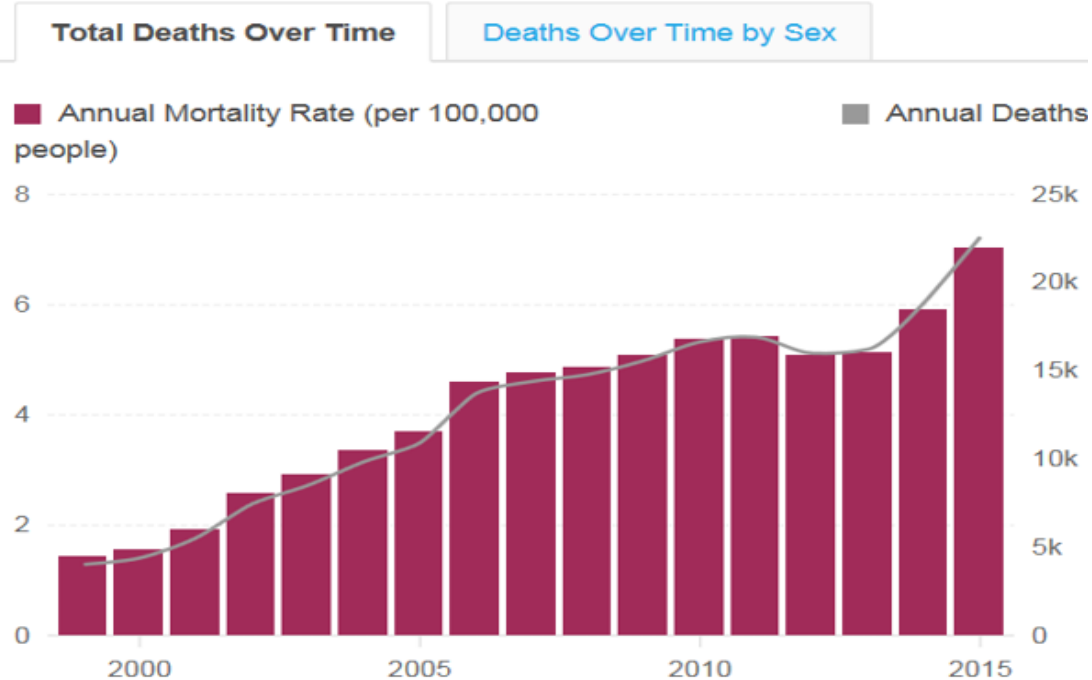
Noted Benefits/Positives

.....Medical (Studies)

Marijuana vs. Opioids

Opioid Epidemic

Fatal Overdoses on Opioids in the United States Over Time
 Source: National Institute on Drug Abuse. As of 2016



2016 Center for Disease Control Report

- **2014 - EVERY DAY 46 people die from an overdose of painkillers** such as Opioids, Vicodin, OxyContin, Opana or Methadone
- **2012 - Doctors write 259m prescriptions for painkillers**

2014 Journal of American Medical Assoc. Rpt.

- **Annual Opioid Deaths decreased 25% between 1999 and 2010 in states that legalized marijuana**

2015 RAND Study Conclusions

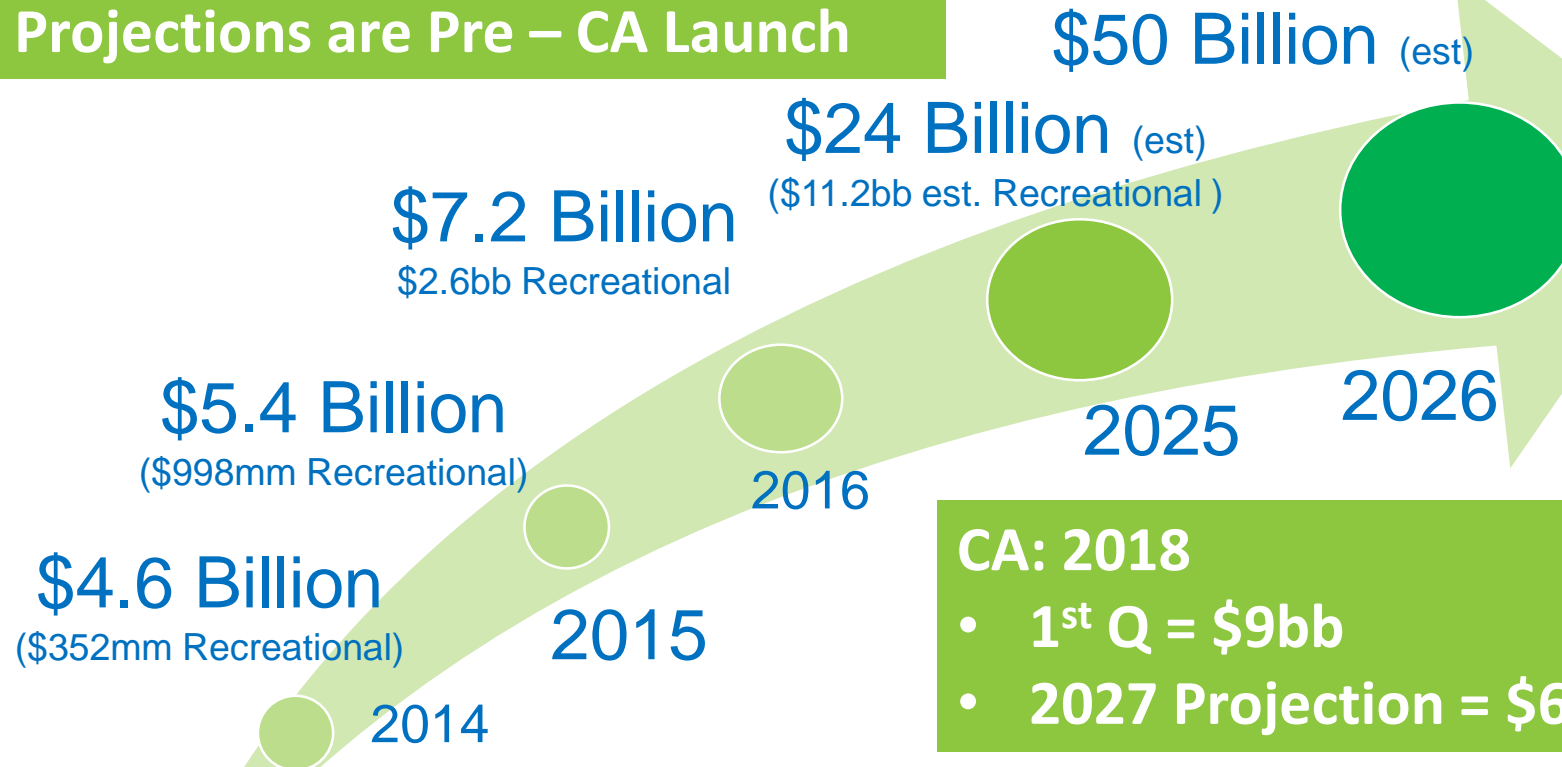
- **States with legalized medical marijuanaexperience decreases in both opioid addiction and opioid deaths compared to states without legalized medical marijuana**

Noted Benefits/Positives

.....Economic (Estimates Vary)

Legal Marijuana Sales Growth = Economic Growth (Medical and Recreational)

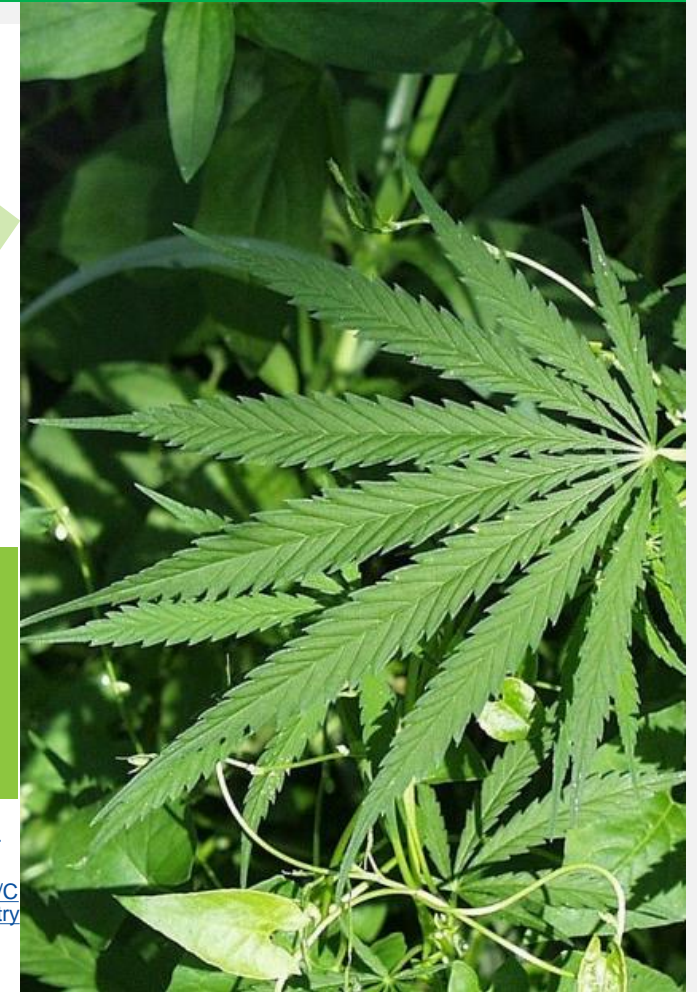
Projections are Pre – CA Launch



<https://finance.yahoo.com/news/frontier-data-u-cannabis-market-133832469.html>

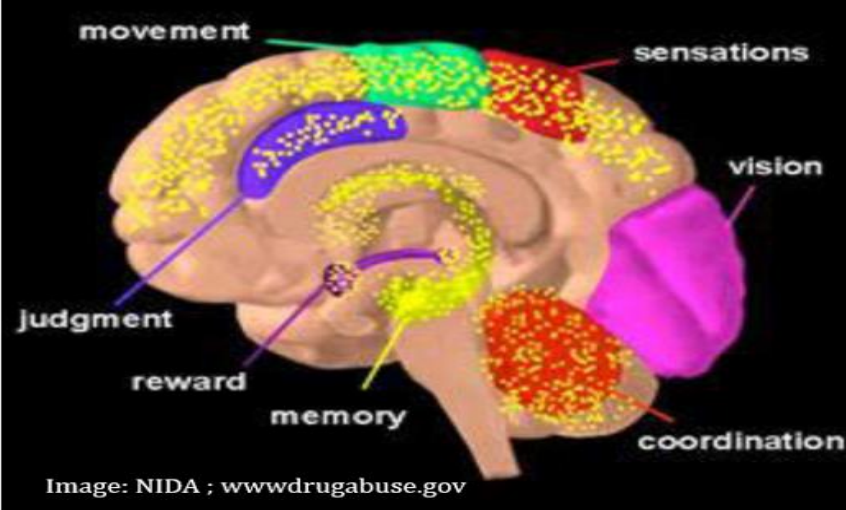
ArcView Market Research; Fortune 2/1/16 and Marijuana industry could be worth \$50 billion annually by 2026; Market Watch Apr 22, 2017

<http://www.businessinsurance.com/article/20180425/NEWS06/912320824/California-insurance-commissioner-urging-insurers-to-cover-cannabis-industry>



IntroductionConcerns

THC acts on numerous areas in the brain (in yellow).



Short Term Effects (1-3 Hours)

- Impaired cognitive capability (impact: school, employment, driving, etc.) for 1-3 hours
- THC may remain in the body for days or weeks (complicates testing)
- Extreme doses may lead to anxiety, fear, acute psychosis rather than a relaxed euphoria

A Word About “Synthetic Marijuana” (“Spice”; “K2”)

Actually not Marijuana:

- Designer drug consisting of herbs, incense, other leafy material
- Sprayed with lab created chemicals attempting to mimic the effect of THC
- Can be more potent than marijuana and may have dangerous side effects

Banned Nationally in 2012...but FDA has approved one variant (Marinol) for treatment of migraines, epilepsy; Alzheimer's, HIV, etc.

0% MARIJUANA
100% DANGEROUS

Credit: The New York City Department of Health and Mental Hygiene.

Additional Concerns/Negatives (Not Universally Accepted)

Long Term Effects....Further Research Needed...Inconclusive, but Possible

Addiction...To Marijuana?

- “Marijuana Use Disorder” (MUD) - form of dependence in about 30% of regular marijuana users
- Those that started young are more prone
- Severe cases of MUD may lead to addiction in extreme cases

Gateway to Other Drugs?

- Possible if other factors are at play (e.g., life style/social environment, propensity for addictions, etc)... **Not more so, and probably lower, than over use of nicotine, alcohol, opioids and other pain remedies**
- Regular use by Teen Boys – Increased risk of psychotic symptoms e.g., paranoia, hallucinations (American Journal of Psychiatry 8/16)

Decreased IQ and Socio-Economic Mobility?

- Frequent, Extended use, starting when very young; lasting for decades

Key Question:

....Do the Health and Economic benefits...
..... make the Risks
Worth Taking?

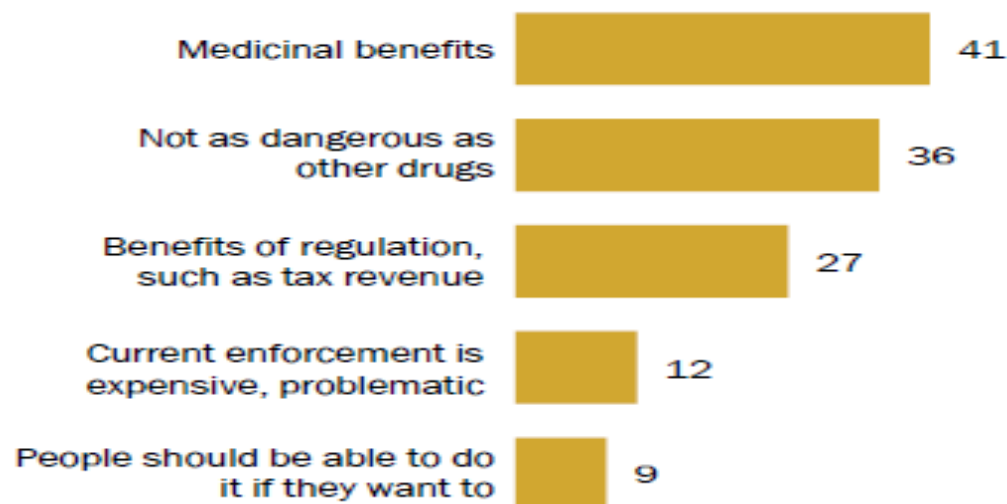


Arguments For.....And Against

.....Much is Still Less Than Conclusive.....Much Additional Research Needed

Many Supporters of Legalization Cite Marijuana's Health Benefits

Among the 53% who think marijuana should be legal, main reason why you feel this way ... (%)

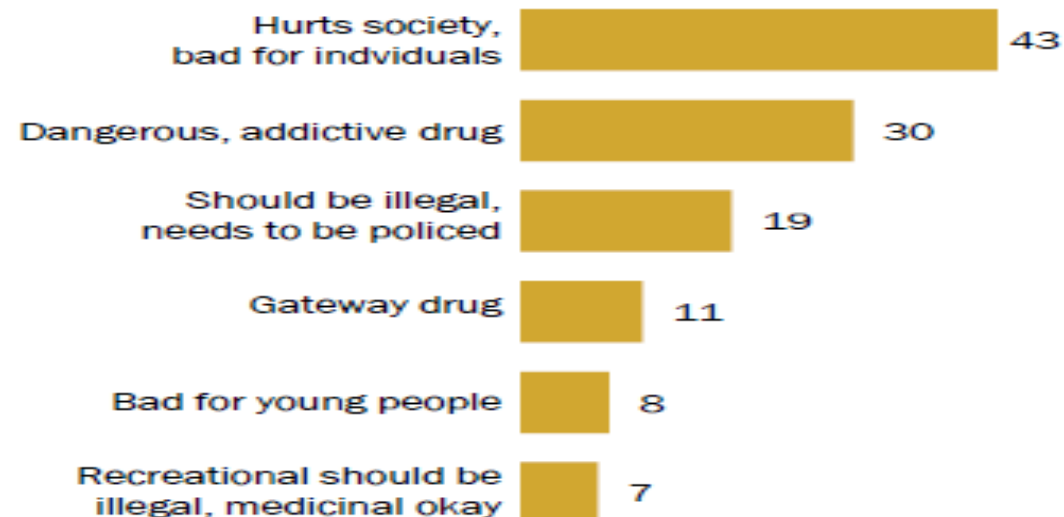


Survey conducted March 25-29, 2015.
Open-ended question. Total exceeds 100% because of multiple responses.

PEW RESEARCH CENTER

Opponents of Legal Marijuana Cite Dangers to Individuals and Society

Among the 44% who think marijuana should be illegal, main reason why you feel this way ... (%)



Survey conducted March 25-29, 2015.
Open-ended question. Total exceeds 100% because of multiple responses.

PEW RESEARCH CENTER

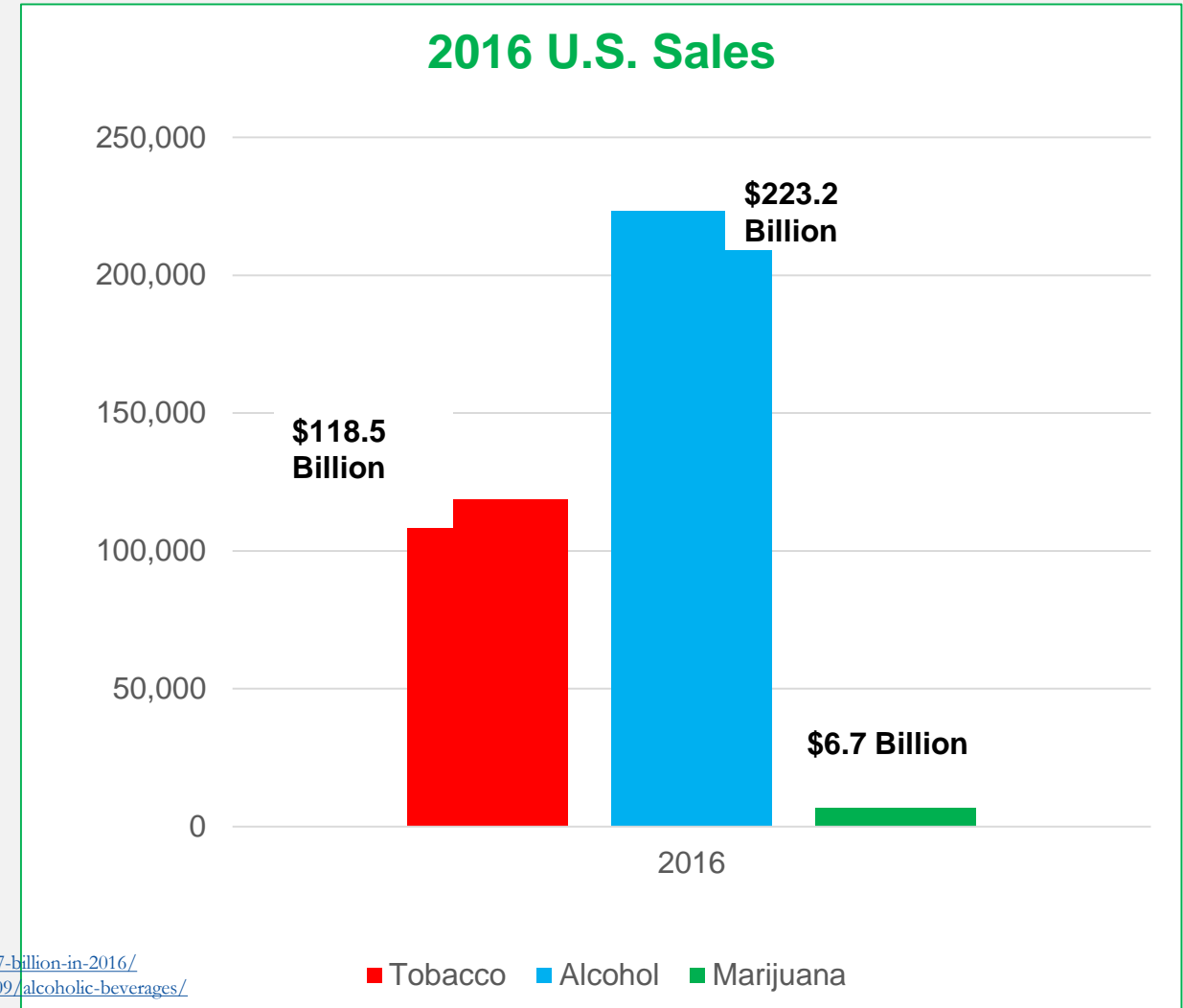
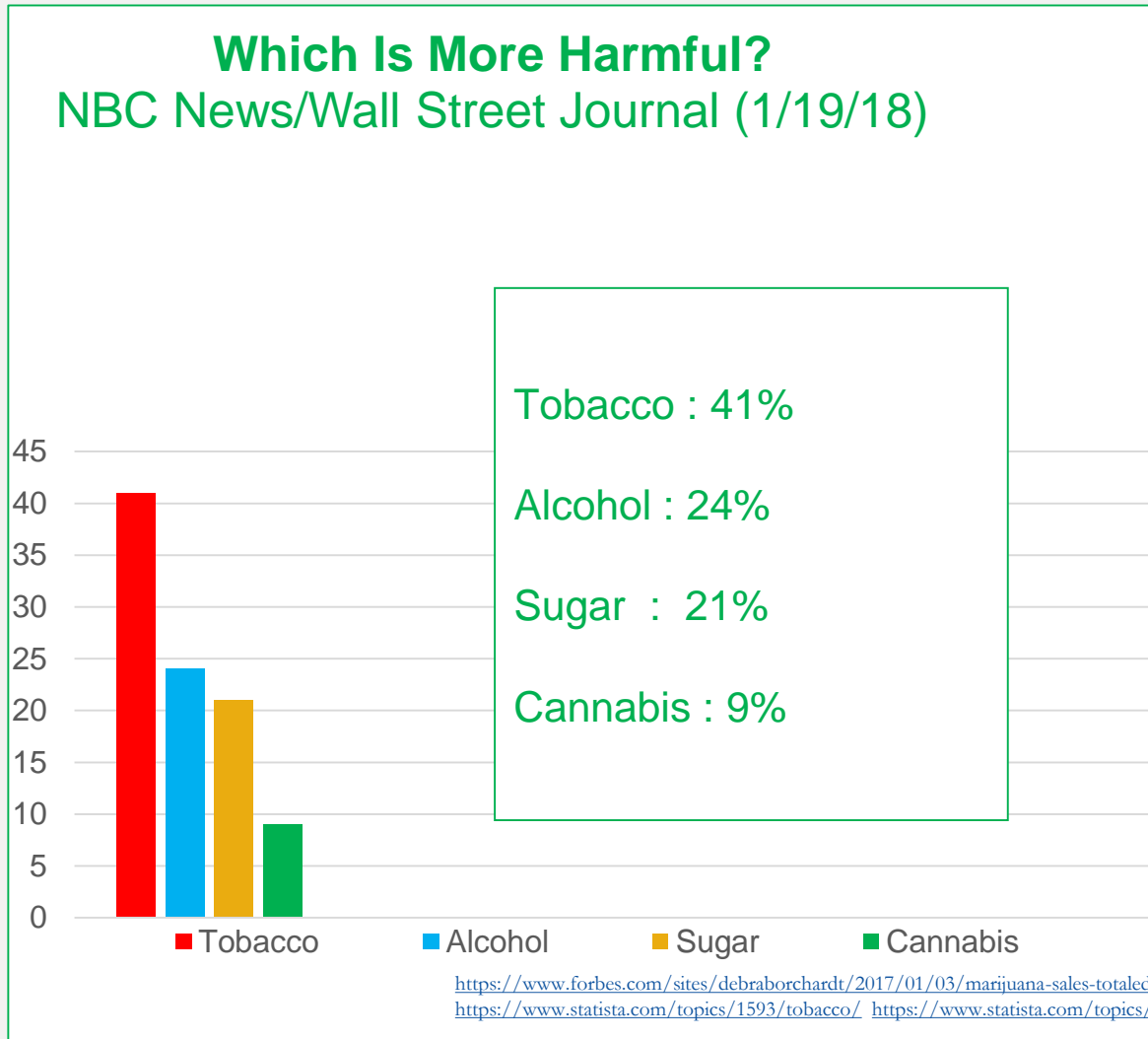
What Do You Think?

How Does Marijuana Compare?	Is Marijuana Better (More Benefit)?	Is Marijuana Worse (More Risk or Harm)?
Cigarettes		
E-Cigarettes		
Alcohol		
Opioids and other Pharma		
Sugar		
Football		
Gambling		



Just some food for thought....but keep in mind, all of the listed items are legal

What Do You Think?Some Polls





Legal / Regulatory Considerations

MarijuanaFederal Law

Key Federal Laws....Through The Years

- **Marijuana Tax Act – 1937** – Intent is to discourage production... **70% Tax**
- **Banking Secrecy Act and Anti-Money Laundering Provision -1970**
 - Requires US financial institutions to maintain records regarding currency transactions and customer relationships.
 - Rules implemented under that law require financial institutions to file Suspicious Activity Reports (SARs) to report “suspicious transactions”.
 - **Does Not Apply to Insurance Companies**
- **Controlled Substances Act (CSA) – 1970 (Prior to 1970???)**
 - Marijuana classified as a **Class I Controlled Substance**
 - **Illegal to grow, cultivate, possess, use or distribute**
 - No accepted medical use; high potential for abuse; lack acceptable safety evidence
- **18 US Code Sections 1956 and 1957**
 - **Prohibits financial transactions involving the proceeds of unlawful activity or criminally derived property.**
 - Separate and distinct from the Bank Secrecy Act, so they could be applied to anyone dealing with and accepting money from marijuana-related businesses, which under federal law are engaged in criminal activity.
 - **Applies to Insurance Company Transactions**



Marijuana - Federal Law

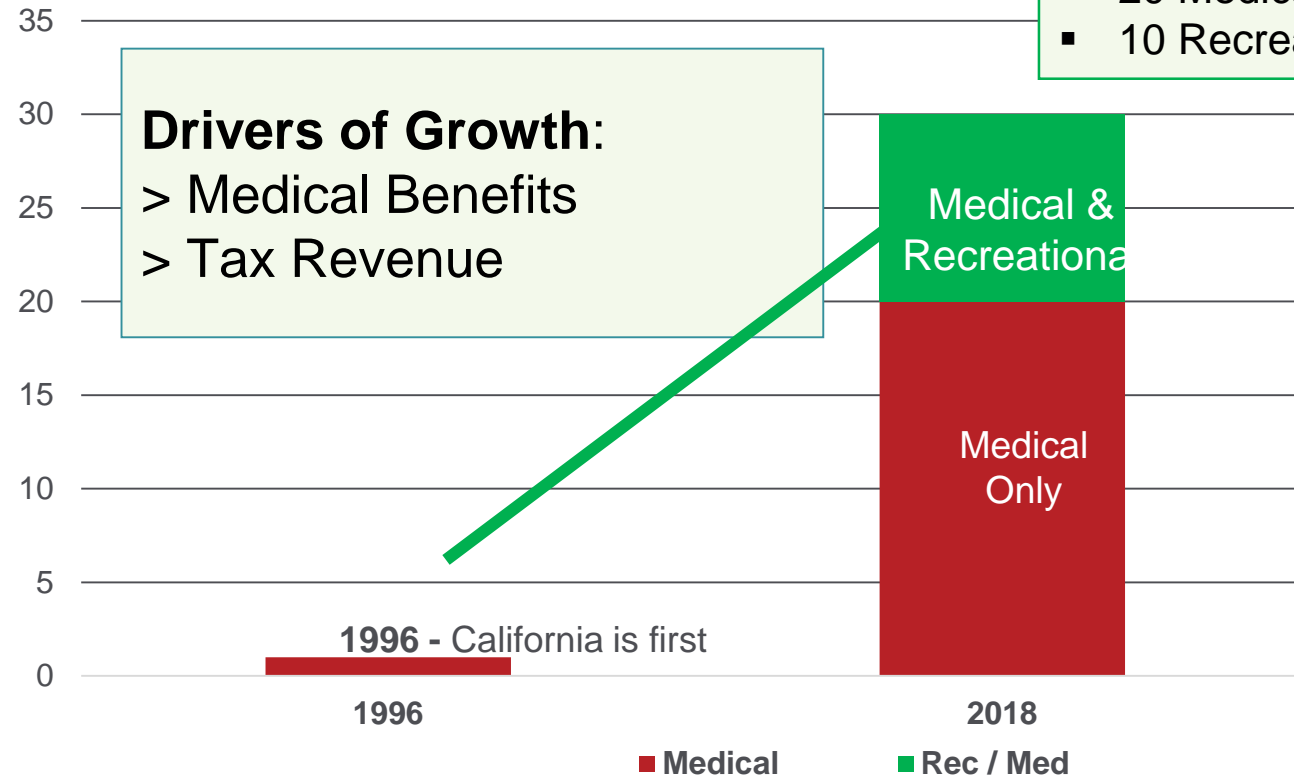
Controlled Substance Act of 1970....(part of the “War on Drugs”)

Schedule Level	Potential for Abuse	Medical Value	Potential Negative Impact of Abuse (Physical or Psychological)	Examples
I	High	None	Severe for both	Heroin; LSD; Marijuana
II	High	Yes	Severe for both	Cocaine; Opium; Oxycodone; methadone
III	High, but less than Schedules I and II	Yes	Moderate or low physical dependence; High psychological dependence	Anabolic steroids; Marinol (synthetic marijuana)
IV	Lower than Schedule III	Yes	More limited than Schedule III	Ambien, Valium
V	Lower than Schedule IV	Yes	More limited than Schedule IV	Cough suppressants (Codeine) other preparations that contain Opium

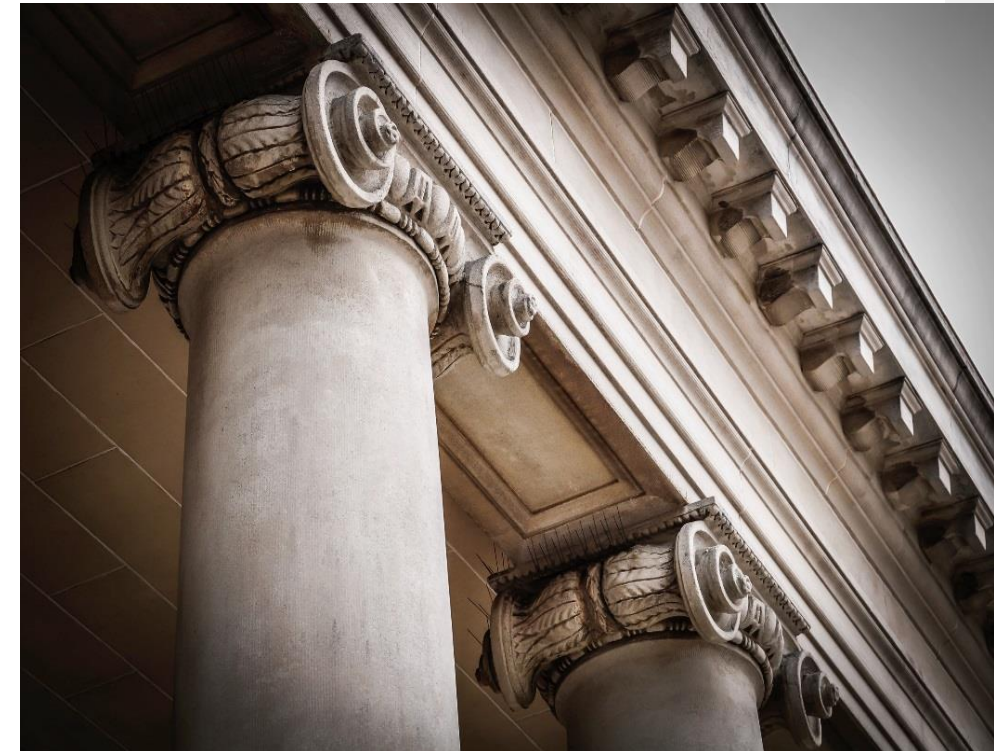
Even so, US holds patent (No. US 6,630,507 B1 specifying Marijuana’s multiple therapeutic benefits

Marijuana Legalization.....a “Growing” Phenomena...@ January, 2018

Marijuana State Legalization



Graph: Munich Re America



Marijuana - State Law

State of the States @ January, 2018

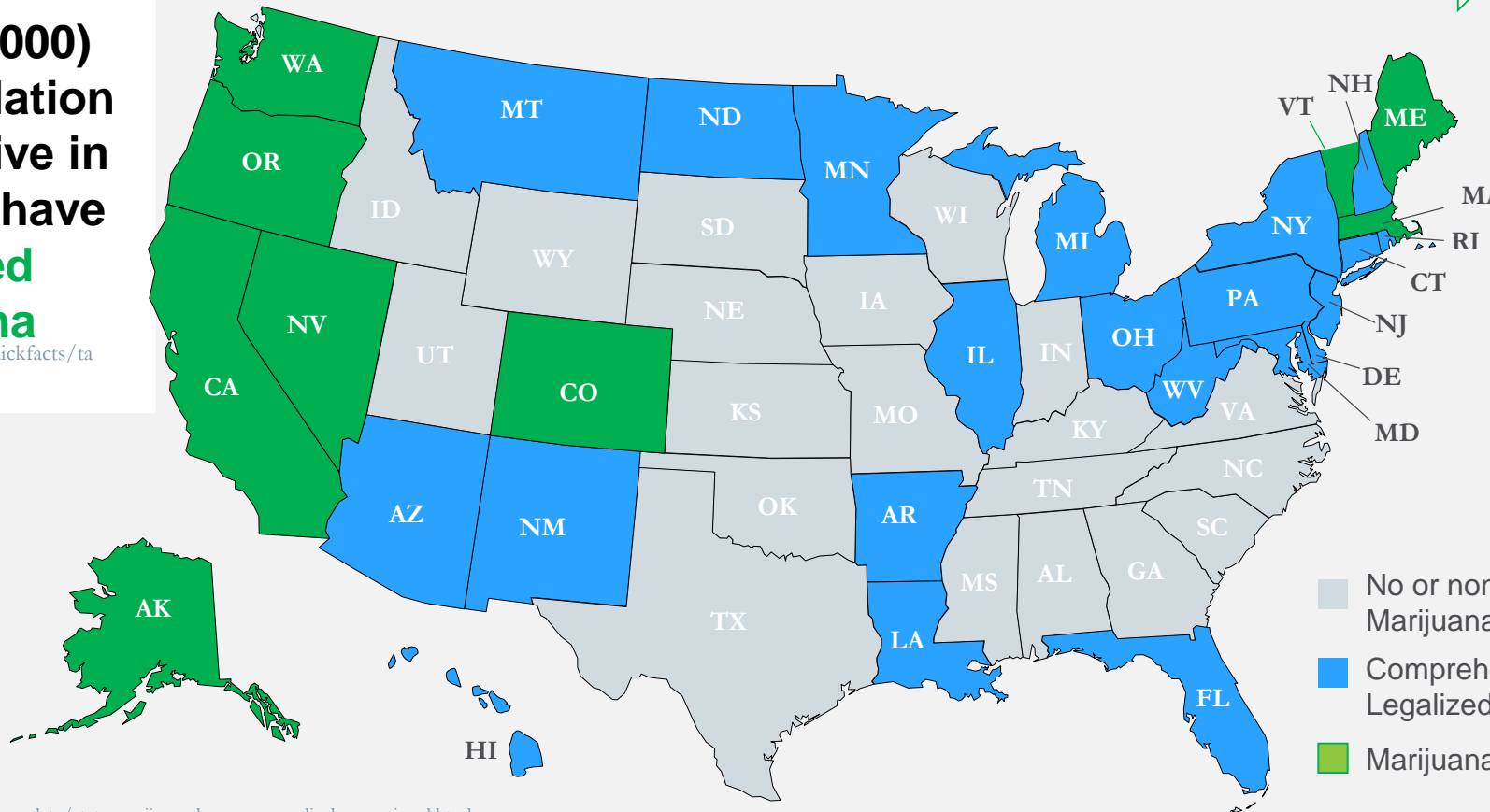
61%
 (~ 198,011,000)
 of US Population
Now Live in
 States that have
**Legalized
 Marijuana**

<https://www.census.gov/quickfacts/table/PST045216/00>

Of Which

20%
 (~63,627,000)
 of US Population
Now Live in
 States that have
**Legalized
 Recreational
 Marijuana**

<https://www.census.gov/quickfacts/table/PST045216/00>



- No or non - comprehensive Laws Legalizing Marijuana
- Comprehensive Medical Marijuana Legalized
- Marijuana Legalized for Recreational Use

MarijuanaState Law Breakdown



State Marijuana Laws @ January, 2018

**Legal
Medical &
Recreational Use**

**Medical Use
Legal / Decriminalized**

**Limited Access Laws
(Low THC/High CBD)
Medical or Legal Defense
Only**

- Alaska
- California*
- Colorado
- District of Columbia
- Maine*
- Massachusetts*
- Nevada*
- Oregon
- Vermont***
- Washington

- Arizona
- Arkansas*
- Connecticut
- Delaware
- Florida*
- Hawaii
- Illinois

- Maryland
- Michigan
- Minnesota
- Montana
- New Hampshire
- New Jersey

- New Mexico
- New York
- North Dakota*
- Ohio*
- Pennsylvania*
- Rhode Island
- West Virginia**

- Alabama
- Georgia
- Iowa
- Kentucky
- Louisiana*
- Mississippi
- Missouri
- No. Carolina
- Oklahoma
- So. Carolina
- Tennessee
- Texas*
- Utah
- Virginia
- Wisconsin
- Wyoming

9 States + DC
*2016 Laws / *** 2018 Laws

20 States
*2016 Laws ' ** 2017

*Law is considered non-functional as it requires a physician "prescription" which can't be done as long as it is illegal at the federal level.

16 States

**Only 5 states - Idaho, Indiana, Kansas, Nebraska and South Dakota
.....**HAVE NOT** Decriminalized or Legalized Marijuana to some extent**

<http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

MarijuanaState Law Breakdown

Recent or Projected Activity

2018 Additional Potential State Activity:

(Newsweek 1/2/18 <http://www.newsweek.com/marijuana-legalization-2018-which-states-will-consider-cannabis-laws-year-755282>)



1/22/18

Vermont becomes 9th U.S. state to legalize Recreational Marijuana

Unique:

- 1st one done exclusively through legislation rather than ballot initiative
- Applies only to Personal Growth and Use...Not Commercial production/Sale...(for now)

Recreational

- Michigan*
- Delaware
- Rhode Island
- Connecticut
- Ohio
- New Jersey*

Medical

- Oklahoma*
- Kentucky
- So. Dakota
- Utah
- Missouri

*3 Most Likely in 2018

<https://finance.yahoo.com/news/3-states-most-likely-legalize-111700126.html>

2017 New Federal Tax Reform:

Restriction of SALT deductions may spur additional States to legalize recreational marijuana to generate additional tax revenue?.

State Laws Vary Tremendously

Often Regulated (similar to the sale of liquor)...but with more limitations

Who can “prescribe”
(recommend)

Where it can be used
(public, private)

Where You can Grow,
Sell, Buy , Use

How Much Quantity and
dosage
(THC level)



Form
(smoke, food, pill)

Employment provisions:
Employee or employer
protections

Taxes and fees

Eligible Medical Conditions
(Usually very specific)

Who Can Grow, Process, Buy or Sell
(age limits, licensed growers, dispensaries; certification often required)

Even Existing Laws are Constantly Evolving
(e.g., in 2016 both IL and NJ expanded use for PTSD; IL reduced Marijuana Penalties)

Federal vs. State Legal Uncertainty



Federal

Federal: Continues to be classified as Illegal – Schedule 1 Substance



State

States: Increasingly Legalizing Marijuana – Medical and Recreational

The Challenge?.....
.....How To Reconcile??

Some Judicial Activity....Trend Toward State Law

- **2005 - Gonzales v. Raich** - US Supreme Court Established Federal Preemption for Marijuana based on US Constitution Commerce Clause
- **2016 - Courts in 2 states applied or modified State Marijuana law** ...but **DID NOT** apply Federal Marijuana Law, i.e., supported State law
 - **Hartwick (2016; MI Circuit Ct.)** – Defendant guilty of illegally growing/processing marijuana in violation of state medical marijuana
 - **MT Supreme Court (2016)** Upheld a 2011 amendment to the 2004 Medical Marijuana Law that limited how much & who can sell marijuana.
- **US Supreme Court (2016 Nebraska v Colorado, No. 144)** - **“Punts” (for now)** – Declined to hear a case brought by OK & NE citing CO law violates Federal law
- **2016 - Ninth Circuit Court of Appeals Decision** - Unanimously ruled that the DOJ **CAN NOT** prosecute medical marijuana cases for violating the CSA as long they are in full compliance with state laws legalizing medical marijuana..... **Reinforced a 2014 budget measure (Rohrabacher-Farr Amendment)**



Judicial Activity...2017 Employment Case

2017 Employment Cases

Moving Toward Recognizing State Law; Prior Cases were More Pro-Employer based on Federal law

(e.g., *Coast v Dish Network*, CO, 2015; *Garcia v Tractor Supply Co.*, 2016)

Some Recent Examples

- CT – *Noffsinger v. SSC Niantic Operating Company, LLC*, No. 3:16-cv-01938 (August 8, 2017): Federal district held that federal law does not preempt Connecticut law.
- MA – *Christine Barbuto v. Advantage Sales and Marketing, LLC* (July 17, 2017): The Supreme Judicial Court of MA ruled that an employer could be liable under the MA Anti-Discrimination Act for terminating an employee for testing positive for off-duty Medical Marijuana use.
- RI - *Callaghan v. Darlington Fabrics and the Moore Company, C.A. No. PC-2014-5680* (May 23, 2017): The RI Superior Court held the state's Medical Marijuana Act prohibits discrimination against medical marijuana users



Legislative / Regulatory Activity.....How do the States Do It

Rohrabacher- Blumenauer Amendment to the Federal Appropriations Bill First Passed in 2014

- Doesn't change the illegal Federal Status of Marijuana
.....but does **Protect Marijuana and Hemp** ...
- **Prohibits use of Federal Funds to interfere with State Medical Marijuana laws** and activities that are consistent with State laws
- **Increasing Bi-partisan support**But
.....has to be renewed every year as part of US Spending Bill
 - **2018 Senate Budget ...Reinforced by the House****Rohrabacher Continued**



Congress Doesn't Give the DOJ Money to Enforce Federal Law!!!

Enforcement Activities.....

■ 2009 - Department of Justice (DOJ) Ogden Memo

- **Would not Enforce Federal Preemption** (Federal resources should not focus “on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana.”)

■ 2011 and 2013 – Cole Memorandum on Medical Marijuana

- **Reinforced and codified by Congress through the 2014 Rohrabacher Amendment**
- **Clarification and Guidance to US Attorneys regarding the Ogden Memo**
 - Applicability to States that have legalized Medical Marijuana
- **DOJ is committed to enforcing the CSA...but broad discretion granted recognizing resource priorities:**
 - Priority is prosecuting “significant traffickers in illegal drugs” including “commercial operations cultivating, selling or distributing marijuana” ...however.....
 - **To the extent that States have legalized marijuana and have adequate enforcement in place, Federal enforcement in conflict with those State Laws is not a priority**

■ 2018 – Jeff Sessions DOJ Memo - Rescinded Cole Memo



▶ **Net Effect For Marijuana Legalization Proponents:???????**

Marijuana Legal Landscape

.....State/Federal Law Reconciliation

Enforcement Activities.....

What does the Sessions DOJ Rescission of Cole mean???

▪ Is It More Cosmetic than Substantive???

- Cole Memo didn't prohibit Federal Enforcement; Sessions Memo doesn't require Enforcement

- Rohrabacher Amendment - Prohibits use of Funds to Enforce the CSA in States where it is legal...as long as it continues

- Will Congress or Trump Allocate other Resources... Perhaps diverting funds earmarked to fight terrorism to closing marijuana Dispensaries??.....Probably Not

- **Other States** - Moving Forward with Plans to Legalize

▪ **If legal Action is Taken**

- **Will it Finally Motivate Congress Act???** – Pass a Law Legalizing Marijuana Federally or making State marijuana Law Pre-emptive to the Federal CSA



Federal Legislative / Regulatory Activity.....Proposed/Pending

A Glimpse Into the Future??????

2015 Legislation Introduced

- HR 667: Veterans Equal Access Act
- S 683/ HR 1535: CARERS (Compassionate Access, Research Expansion and Respect States)
- HR 1940: Respect State Marijuana Laws Act of 2015
- S 1726: Marijuana Businesses Access to Banking Act
- HR 1013: Regulate Marijuana Like Alcohol Act

2016 Legislation Introduced

- HR 5549 (114th): Medical Marijuana Research Act of 2016

Bottom line:

- **All - Seek to Decriminalize marijuana at the Federal level**
.....at least for Medical
- **All - Leave it to the States**
- **All - Either in Committee**
.....or will be
- **Most are Bi-partisan**

2017 Legislation Introduced

- HR 975 - Respect State Marijuana Laws Act of 2017
- HR 1227: Ending Federal Marijuana Prohibition Act of 2017
- S. 1689: Marijuana Justice Act of 2017





Insurance Implications

Marijuana - Insurance Market

Insurance Market in Transition

Current Market Limited due to Federal Legal Status

- ~ 30 Carriers Active.. Growing: E&S, Specialty; Captives...

Liability Coverage Required for a License

If/When Federal Law changes....

....the market is expected to expand rapidly

Underwriting Risk Is Manageable

Potential Market

- Farms
- Manufacturing/Processing
- Wholesale/Distributing
- Medical Professional
- Retail Dispensing
- Ancillary Activities: e.g., Real Estate, Security

Lines of Business

- Farm/Homeowners (1st and 3rd)
- Commercial Property
- General and Product Liability
- Crime
- Malpractice/E&O
- Plus.....

Lines Of Business

Already Exposed/Covered

- **Workers Compensation** (Use and Treatment Costs)
- **Employment Practices** (Drug Testing)
- **Auto** (DUI)

Marijuana

.....“To Cover or Not to Cover”

Oregon Coverage Clarification Requirements

Oregon Bulletin DFR 2017-04.....Two Basic Requirements:

.....May Lead to expansion to other states or development of Manuscript Marijuana Endorsements

“....policies that would otherwise cover marijuana items or activities should **explicitly state whether those risks are covered or excluded.**”



“In order to exclude loss, damage, or liability associated with marijuana items and marijuana activities: **Policies ...**
**must contain language in the policy explicitly stating** the extent to which marijuana items and activities are excluded.”

ISO and AAIS: Filed a series of Marijuana Exclusions in Response to the Oregon requirement that carriers **clearly specify** in their Property/Casualty Policies if and to what degree Marijuana is **Not Covered** or **Covered.**  **ISO has Formed an Ad Hoc Group Panel to Develop Coverage Endorsements**



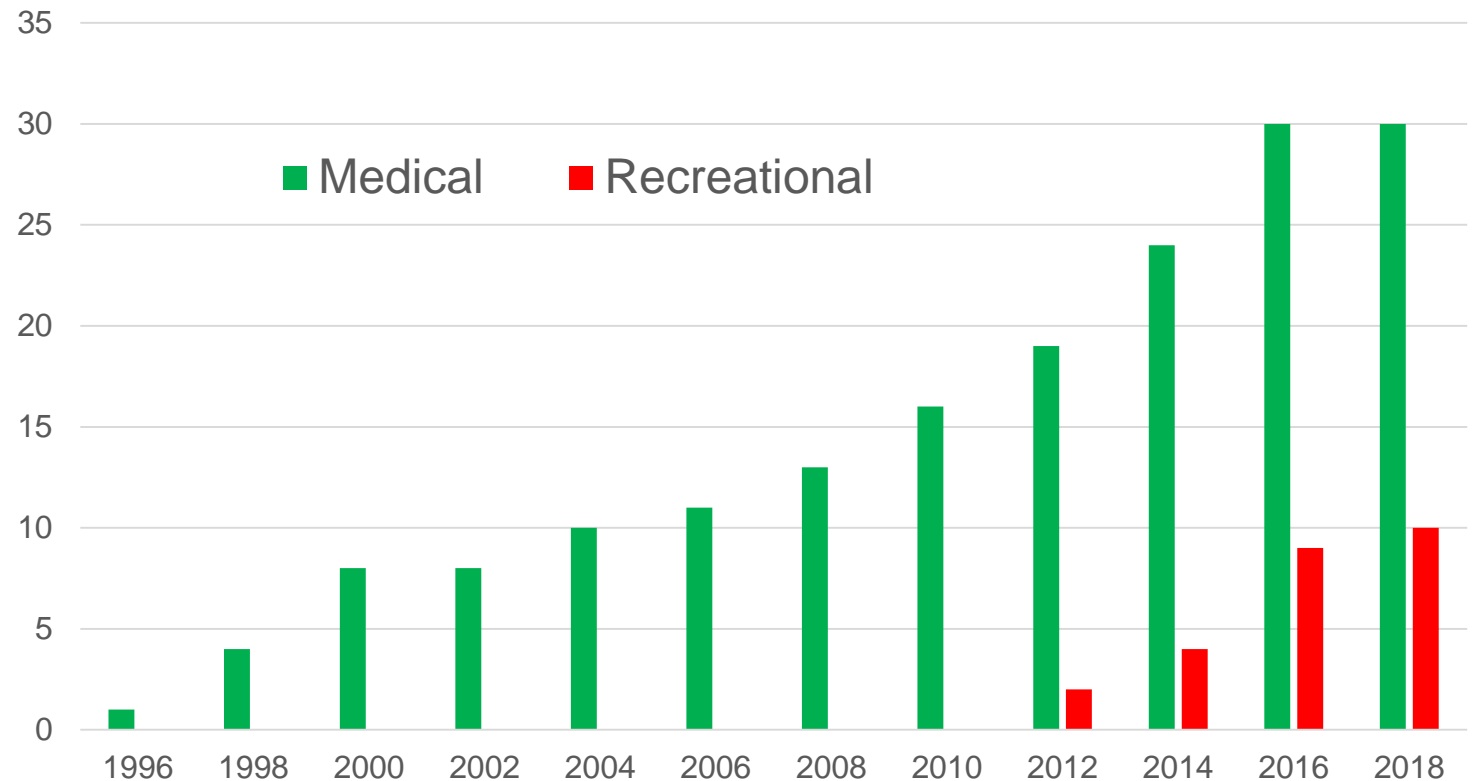
Closing Thoughts

MarijuanaState Law Trend

State Legalization Trend @ January, 2018



(Includes District of Columbia)



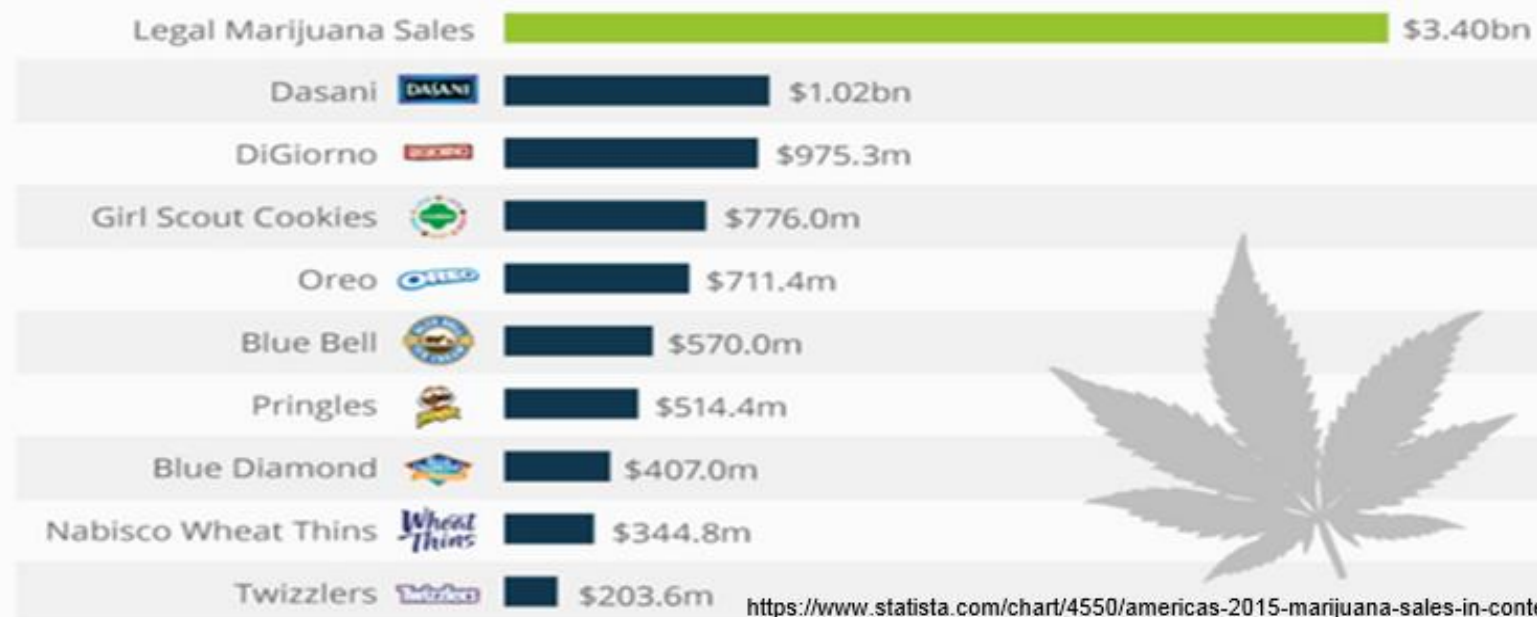
State laws change from time to time, with the recent trend being toward an expansion of marijuana use. Up to date details on any state marijuana law may be found at the following websites:
<http://norml.org/states> and <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

Marijuana - Where does Marijuana fit in?

How Big is Marijuana Already?

America's 2015 Marijuana Sales In Context

2015 legal marijuana sales and selected 2014 company sales in the U.S.*



In Spite of the ongoing debate

In 2015 ...Pre 2016, 2017 and 2018
Legalization Expansion

.....Marijuana Outsold Many Common
Food Productsby a wide margin

.....

.....Even though its legal in only about
half the country...

..... and is legal recreationally in only
10 Jurisdictions...

MarijuanaAn Interesting Development

High Tech Marijuana.....Sign of Mainstreaming?????

Syqe inhaler (Syqe Medical)
.....wireless connectivity
Manufactured with 3D Printing Technology



Microsoft

Teaming with *KIND (ATM mfg)...*

Develop software to help sell.... and track marijuana sales...

....through MARIJUANA ATMs

Marijuana - State Law

....A Reminder

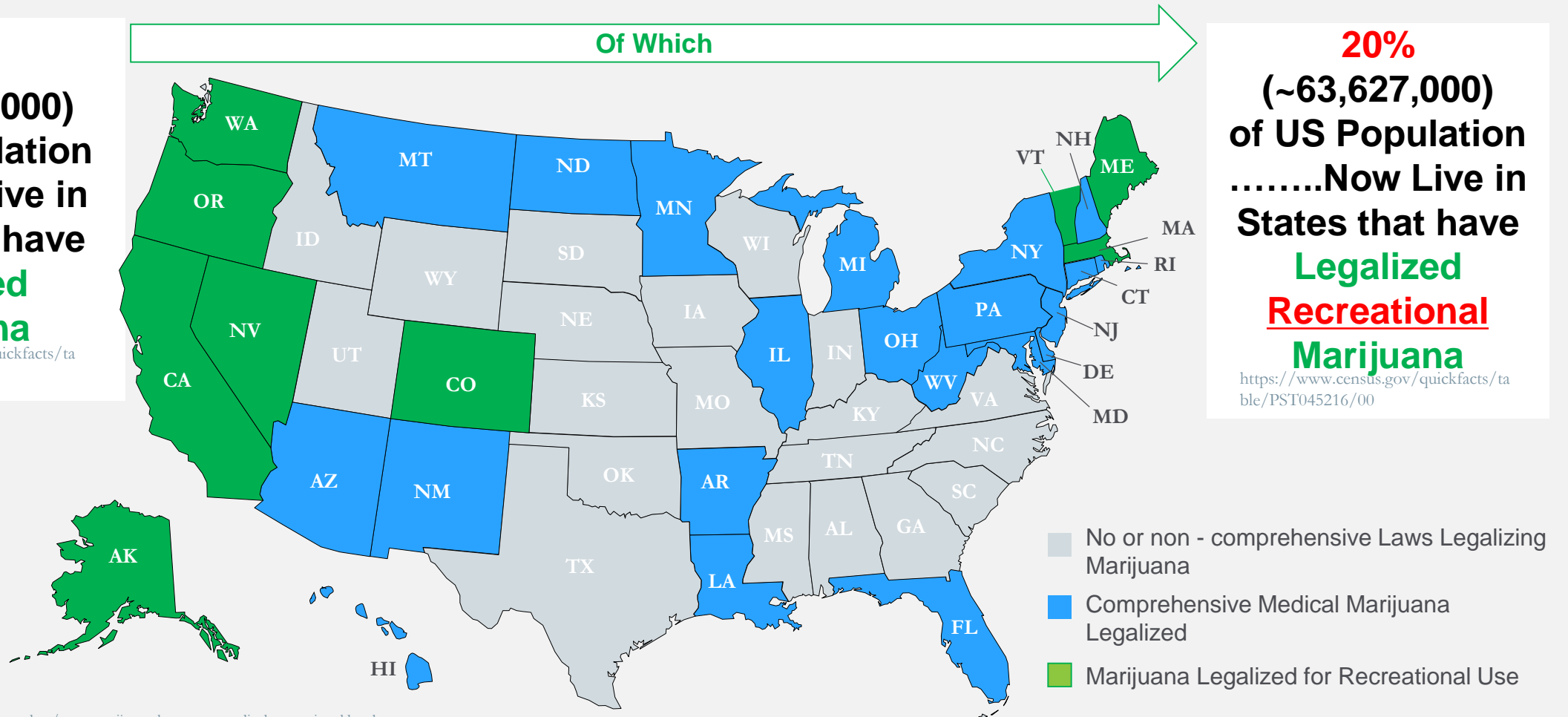
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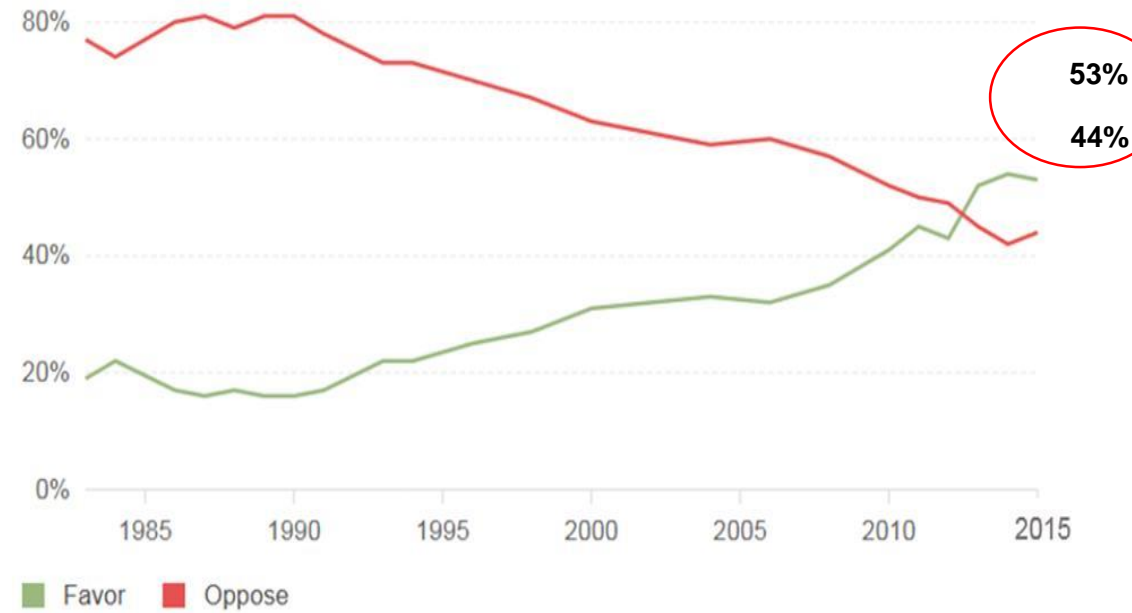
Marijuana Summary

.....Public Opinion.....Future Implications

Marijuana Support Over Time 2015 PEW Research Study...

Now a Majority of Americans Support legalization...53%

Over 30 Years.....Increasing Public support for Marijuana legalized.....

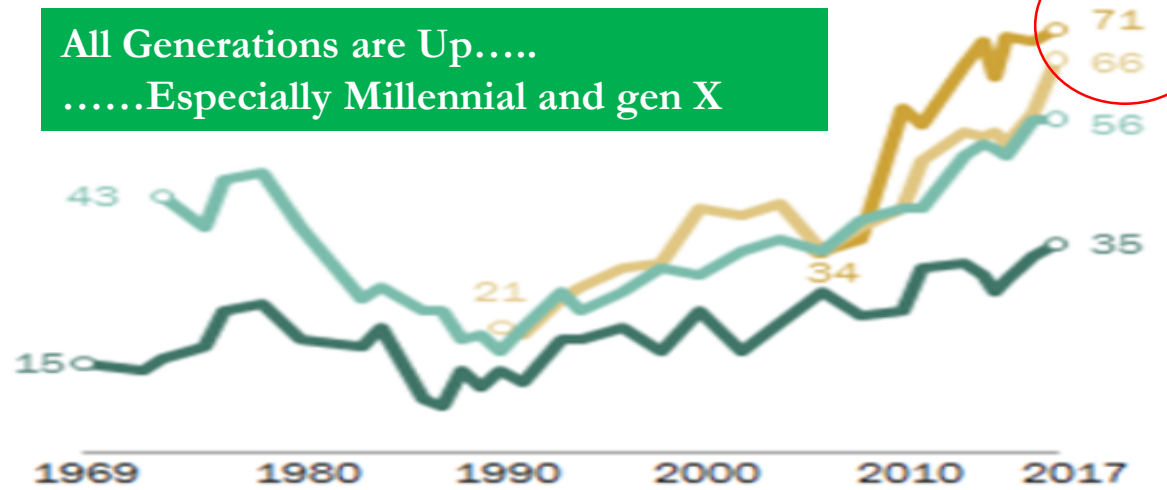


Source: Pew Research Center. Survey last conducted in March, 2015

Majorities of Millennials, Gen Xers and Boomers say marijuana should be legal

% who say the use of marijuana should be made legal

Millennial Gen X Boomer Silent



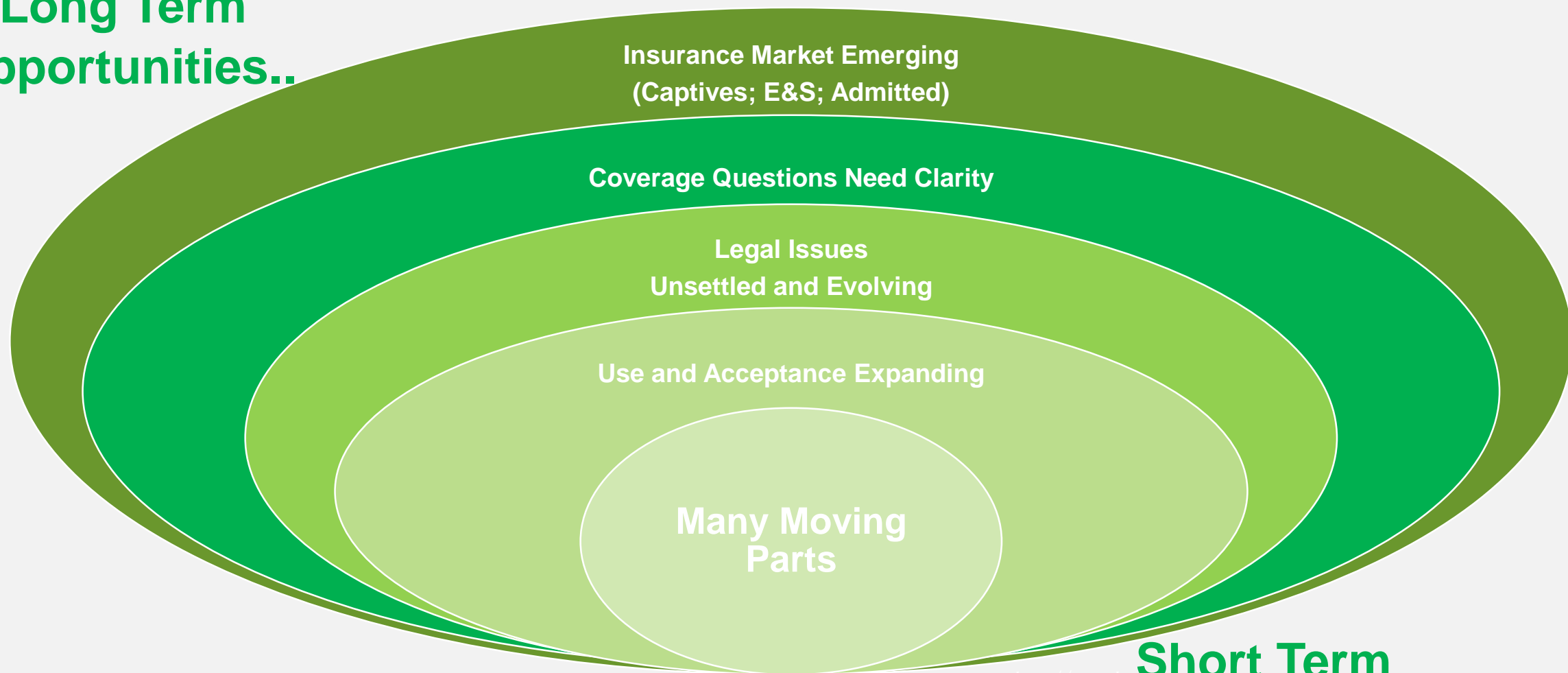
Note: 1973-2008 data from General Social Survey; 1969 and 1972 data from Gallup.

Source: Survey conducted Oct. 25-30, 2017.

PEW RESEARCH CENTER

Marijuana Summary

Long Term Opportunities..



Short Term Underwriting/ Claims Challenges



Thank You

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Questions and Discussion

