



STATE OF WASHINGTON

February 15, 2017

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Sessions:

On behalf of the people of the state of Washington, we respectfully request to meet with you regarding the U.S. Department of Justice's (DOJ) position on state laws legalizing marijuana. We ask that DOJ maintain the policies set forth in the Cole Memorandum, or that DOJ engage with our state and others before considering any changes to those policies.

Our state's efforts to regulate the sale of marijuana are succeeding. A few years ago, the illegal trafficking of marijuana lined the pockets of criminals everywhere. Now, in our state, illegal trafficking activity is being displaced by a closely regulated marijuana industry that pays hundreds of millions of dollars in taxes. This frees up significant law enforcement resources to protect our communities in other, more pressing ways. We urge DOJ to continue to allow states the option to pursue these sensible policies.

As you know, in 2012, Colorado and Washington became the first states to authorize recreational use of marijuana under state law. Washington's law was adopted by initiative of the people.

In August 2013, after considering what should happen under contrary federal law, DOJ responded with the "Cole Memorandum." The Memorandum declared that DOJ would consider it low priority to prosecute federal cases against actors complying with state marijuana laws, as long as states were achieving certain federal enforcement priorities. Those priorities include preventing the distribution of marijuana to minors, preventing criminal enterprises from profiting from state-legal marijuana, and preventing the diversion of products to states without such laws.

Relying on the Cole Memorandum, Washington designed and implemented a rigorous regulatory system that promotes the federal government's enforcement priorities:

- To be licensed under state law, marijuana businesses must undergo criminal and financial background investigations and make substantial investments in compliance and security systems.

- To avoid illicit interstate diversion, marijuana products are required to be traceable from beginning to end, and the overall “canopy” of legally-grown marijuana is limited to an amount that approximates the size of the state legal market.
- Advertising and product packaging are required to be unattractive to children.
- Marijuana businesses pay robust taxes (\$272 million projected for FY 2017) that support the regulatory system, law enforcement, public health programs to combat drug abuse, and long-term, comprehensive studies of the effects of the regulated market.
- Finally, Washington eliminated a previous “gray market” system of “medical marijuana dispensaries” by mandating that the medical marijuana system be merged into the well-regulated recreational marijuana system.

Washington and Colorado are not unique in this regard. With recreational marijuana laws having passed in Alaska; Oregon; Washington, DC; Maine; Massachusetts; Nevada and California, more than 68 million Americans live in jurisdictions that follow this policy. As of 2017, a majority of states permit at least some medical use of marijuana. Congress indicated its support for medical marijuana in 2014, with the “Rohrabacher-Farr Amendment,” stating that DOJ should not expend funds to prosecute patients using medical marijuana in a manner consistent with applicable state law.

We recognize that a new Attorney General may reconsider the policies of his or her predecessors. We respectfully submit, however, that the best choice at this time is to leave the Cole Memorandum in place. Our state government and numerous private businesses have expended considerable resources to build a system that follows the Memorandum’s principles and priorities. We believe that we have achieved significant initial success. While obeying federal enforcement priorities, our tax receipts are higher than expected, and prices for state-legal marijuana are falling. This suggests legal commerce is capturing significant market share from illicit trafficking.

We also invite you to carefully consider the practical consequences of withdrawing the Cole Memorandum. The federal government could attempt to end the state-regulated marijuana industry through actual or threatened prosecutions. But to what end? Given the limited resources available for marijuana law enforcement, a return to “full” prohibition is highly unlikely to end the illicit production, trafficking and consumption of marijuana. It is far more likely that commerce in marijuana will simply move back underground, returning bumper profits to criminal groups while once again depleting government resources.

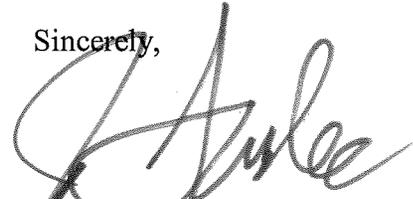
Meanwhile, we note that the country is in the grips of an unprecedented and deadly epidemic of opioid addiction and abuse that will not be helped by a renewed law enforcement focus on marijuana. To the extent that DOJ chooses to reallocate anti-drug resources, we encourage it to work even more closely with the states to combat the opioid scourge.

To echo Justice Brandeis, the states that are regulating marijuana are serving as classic “laboratories of democracy.” If our approach is successful, other states and the federal government may choose to emulate it. If it proves to be a failure, despite current good signs, our state may retreat. But we submit that it will benefit the country as a whole if you allow us to continue our current efforts, thereby enabling us to make future decisions on the optimum laws to regulate marijuana.

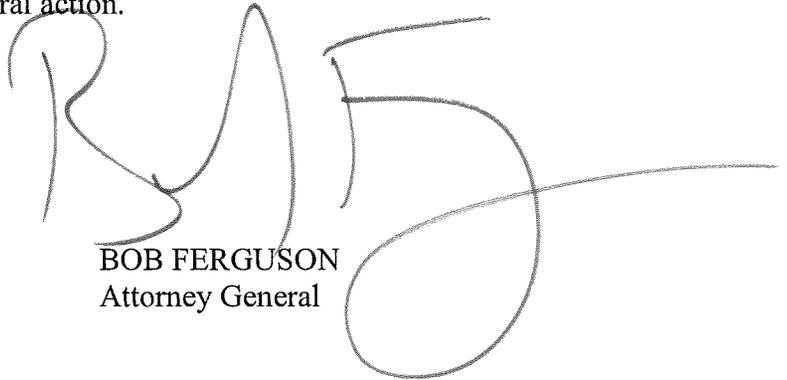
The Honorable Jeff Sessions
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Page 3

We would very much appreciate the opportunity to explain our work to you in greater depth. And if it is your belief that aspects of our system need improvement, we request that DOJ begin a dialogue with us, rather than taking unilateral action.

Sincerely,



JAY INSLEE
Governor



BOB FERGUSON
Attorney General