

# Feds seek to legalize marijuana industry banking

September 11 2013, by Pete Yost

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The Justice Department and federal banking regulators will help clear the way for financial institutions to transact business with the legitimate marijuana industry without fear of prosecution, Deputy Attorney General James Cole told Congress on Tuesday.

The issue has taken on greater urgency now that Colorado and Washington have become the first states to legalize recreational use of marijuana.

Currently, processing money from marijuana sales puts federally insured banks at risk of drug racketeering charges.

Because of the threat of [criminal prosecution](#), [financial institutions](#) often refuse to let marijuana-related businesses open accounts. The problem occurs in states that have laws permitting medical use of marijuana. In 1996, California voters made their state the first to allow medical use, and 19 more states and the District of Columbia have enacted similar laws.

In an appearance before the Senate Judiciary Committee, Cole said the absence of [banking services](#) is one that "we need to deal with" and that "we're working on it."

The congressional hearing was the first since the administration announced a new, more permissive enforcement policy. On Aug. 29, the Justice Department said it won't try to stop Colorado and Washington

state from legalizing recreational marijuana use as long as they implement strong enforcement systems. Marijuana is an [illegal drug](#) under federal law.

At the hearing that highlighted the conflict between state and federal law on marijuana, Cole told the committee that "there are no perfect solutions here. ... We're at the point we're trying to find the best of the imperfect solutions before us."

Democratic Committee Chairman Patrick Leahy said as a result of the banking constraints, legitimate marijuana businesses are operating on a cash-only basis and "that's a prescription for problems, [tax evasion](#)" and other criminal activity. Cole agreed and said there is a public safety component to the problem because the cash-only business can result in the presence of guns.

In 2011, American Express announced it would no longer handle medical marijuana-related transactions because of fear of federal prosecution. A month later, Cole gave banks an explicit directive on medical marijuana that stated: "Those who engage in transactions involving the proceeds of such activity may also be in violation of federal money laundering statutes and other federal financing laws."

Leahy, who spent eight years as a prosecutor early in his career, said the Justice Department should focus on prosecuting violent crime and should respect the votes in Colorado and Washington to legalize small amounts of marijuana for personal and medical use.

Iowa Sen. Chuck Grassley, the committee's top Republican and co-chairman of the Senate Caucus on International Narcotics Control, said the Justice Department is "giving the green light" to an industry bent on breaking federal law.

Grassley said that Colorado has seen a sharp uptick in the diversion of marijuana from Colorado to other states and increased use among minors.

"I understand the skepticism that you come to it with," Cole told Grassley. "We have reserved, quite explicitly, the right to go in" and challenge the regulatory programs of Colorado and Washington.

Grassley asked what the Justice Department plans to do to protect states like Iowa from marijuana being diverted from states like Colorado. Cole responded, "If it's being exported from Colorado to Iowa and we find out about it, we will prosecute."

With the door to legalization open in two states, others could follow.

The 20,000-member Marijuana Policy Project says it will support efforts to end marijuana prohibition in 10 more states by 2017.

In a harshly worded letter to Holder this week, nine former Drug Enforcement Administration chiefs predicted that "when [marijuana](#) will be fully legal to buy, diversion of the drug will explode."

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