The Whole Plant Act

Amendment Package: H.R. 5068, the Marijuana Opportunity Reinvestment and Expungement Act

Targeted amendments to H.R. 5068, the MORE Act, as introduced on August 29, 2025, expressing the Whole Plant Act as changes to that bill's text for the case in which it is the moving legislative vehicle. Read against the introduced text as printed, end to end; every section citation below was checked against it. Section references in the left-hand position are to H.R. 5068. Independent policy analysis, drafted to be lifted into amendment form by Legislative Counsel.

The MORE Act's eighteen sections are kept substantially intact. The reason is that the MORE Act takes almost no architectural position on the questions the Whole Plant Act answers: it ends prohibition and repairs the harm, and leaves product regulation where it found it, so much of this package supplies a layer rather than correcting one. The corrections it does make are concentrated in the tax chapter, where the bill prices entry in a way that works against its own equitable-licensing purpose, and in the relief machinery, where what is granted is not yet delivered.

Section 1. Short title

This package may be cited as the Whole Plant Amendments to the Marijuana Opportunity Reinvestment and Expungement Act.

Section 2. Advances retained

Nothing in this package reduces, conditions, or repeals any of the following, each of which is adopted in full.

The removal of marihuana and tetrahydrocannabinols from the schedules at section 3(a), its conforming amendments at section 3(b) and (c), and its retroactivity at section 3(d).

The expungement and resentencing machinery at section 10: the one-year district review and expungement order at subsection (a)(1), the notification duty at (a)(2), the petition route with appointed counsel for an indigent petitioner at (a)(3), the sealing requirement at (a)(4), the sentencing review and resentencing-as-if-in-effect at (b), and the effect-of-expungement and non-disclosure immunity at (c). Section 10(b) is the strongest relief provision in any of the federal vehicles and is adopted outright. The broad definition of a cannabis offense at section 13, which reaches conduct a state has made lawful or reduced, is retained with it. Section 13 of this package makes the three additions section 10 does not carry.

The Opportunity Trust Fund at section 5, including the allocation set in new section 9512(c) of the Internal Revenue Code, and the programs it funds at section 6.

The Small Business Administration access provisions at section 7, which bar a decline of service or credit on cannabis grounds across small business development centers, women's business centers, SCORE, veteran business outreach centers, 7(a) loans and guarantees, disaster loans, microloans, small business investment company debentures, and state and local development company loans.

The Cannabis Restorative Opportunity Program and the Equitable Licensing Grant Program at section 6(b), subject only to the keying change at section 11 of this package. Within them, the licence-fee waiver for a first-time applicant below 250 percent of the federal poverty level at section 6(b)(2)(A), the bar on denying a licence for a pre-legalization cannabis conviction at 6(b)(2)(B), the bar on suspicionless employee drug testing by a licensee at 6(b)(2)(D), the harm-and-income definition of an individual adversely impacted by the War on Drugs at 6(b)(3)(B), and the condition at 6(b)(3)(A) that a state have created automatic no-cost expungement and eliminated supervision violations for cannabis offences, are each retained.

The protection of federal public benefits at section 8(a), the security-clearance bar at section 8(b), and the immigration protection at section 9 with its conforming amendments to seven provisions of the Immigration and Nationality Act, all of which do work no state instrument can do. Section 8(b) bars a federal agency from using past or present cannabis use as criteria for granting, denying, or rescinding a security clearance, which is a flat bar rather than an impairment test and is stronger than the framework's own draft on that point. It is retained as written and Section 9 of this package is conformed to it rather than narrowing it.

The vocabulary cleanup at section 11, which strikes marihuana and marijuana throughout the statutes of the United States and agency rulings, regulations and interpretations and inserts cannabis. The severability clause at section 12. The rulemaking discipline at section 14, under which sub-regulatory guidance issued after the first year requires 60 days' notice to the appropriate congressional committees with a description and a justification, which is the same provision as Federal Section 5(11) and needs no change. And the studies at sections 15 through 18, including the

funded National Highway Traffic Safety Administration impairment study at section 16 with $10,000,000 authorized and the National Institute for Occupational Safety and Health workplace study at section 17.

The demographic data collection at section 4.

Section 3. One botanical input

Amend section 3 by adding at the end a definitions subsection establishing cannabis as a single botanical input for purposes of this Act and the Acts it amends.

Cannabis means the plant Cannabis sativa L. and every part of it, without reference to concentration of any cannabinoid by weight and without reference to whether a part or preparation has been designated hemp or marihuana.

A cannabis item is sorted on one of two tracks by end use rather than by botanical origin: the herbal track, for material consumed for its constituents, and the industrial track, for material grown for fiber, grain, seed, stalk and the products derived from them.

An herbal cannabis item is intoxicating or non-intoxicating according to its intoxicating potential at its labeled dose, determined under the standard set under section 5 of this package, and not according to the concentration of any single cannabinoid by weight.

Conform section 3(g)(2), which preserves the pre-enactment marihuana definition for federal employee testing, and section 3(h)(2), which defines a controlled substance for the transportation and Coast Guard rule by reference to what was covered the day before enactment and on December 1, 2018, so that each operates only for the transition period under section 15 of this package and not as a permanent parallel definition.

Strike the exclusion of industrial hemp from the definition of a cannabis product at new section 5902 of the Internal Revenue Code, as added by section 5, and replace it with an exclusion for material on the industrial track as defined in this section, so that the tax base follows end use rather than origin.

The MORE Act removes the origin line from the schedules and then re-draws it in the tax code, in federal personnel law and in transportation law. This section removes it from all four.

Section 4. Classification by intoxicating potential

Add a new section establishing classification and product standards, which the MORE Act does not contain.

Herbal cannabis items are classified by intoxicating potential at the labeled dose. The classification threshold, the test methods and the product standards are set by rule, in conformance with a recognized national consensus standard and, until one is recognized, under an interim standard drawn from the same public references.

In setting the classification threshold the standard-setter is informed by product category, route of administration, onset of action, duration of effect, intoxicating potential, risk of accidental ingestion, the needs of patients, scientific evidence, and adverse-event and poison-control data.

The testing standard applies across the supply chain, to cultivation inputs, to in-process and intermediate material and to the finished product, and is risk-based and scaled to the operator so that verification does not burden the small producer.

Provide for adulterated and misbranded items, for sampling under documented chain of custody by a person other than the licensee whose item is tested, for the contents of a certificate of analysis and its accessibility to the person who obtains the item, for failed tests with disclosed remediation and reclassification rather than destruction, for laboratory independence and a bar on compensation contingent on a passing result, for child-resistant and tamper-evident packaging, for a bar on copycat products, for marketing and health-claim limits, for cannabinoid concentration, dose, onset and duration labeling, and for complaints, adverse-event reporting and recalls.

No statutory cannabinoid concentration ceiling is imposed. Intoxicating potential is governed by the classification above.

Section 5. One lead regulator

Add a new section naming a lead regulator for the standards under section 4 of this package, and directing the administering agencies within their existing competence.

Section 14 of the MORE Act directs the Department of the Treasury, the Department of Justice and the Small Business Administration to issue implementing rules. None of the three regulates a product. This section adds the missing addressee without displacing the three the bill already names, each of which keeps the role the MORE Act gives it.

The authority of the Commissioner of Food and Drugs preserved at section 3(e) is not disturbed, and the public

meeting required by section 3(f) is retained and made the first step of the standard-setting under section 4 of this package rather than the whole of it.

Section 6. Keep the plant public

Add a new section providing for the public-domain record, which the MORE Act does not contain and which descheduling makes urgent.

Recognize a public-domain reference standard for cannabis and its preparations and a public-domain registry of whole-plant preparations characterized against it, building either only where nothing qualifies and keeping a permanent dated public copy of each recognized entry. The reference standard and the registry are prior art. A preparation characterized and entered is publicly known as of its entry.

Entry is open to any person and required of no person. No license, registration, authorization or benefit may be conditioned on entry, and no rule or standard may be satisfied only through a proprietary product, method or service.

Disapply the drug-preclusion rules for a naturally occurring cannabinoid, at sections 321(ff)(3)(B) and 331(ll) of title 21, United States Code, so that the approval of an article containing a cannabinoid does not preclude that cannabinoid from food or dietary supplement use, and so that neither an approval nor a period of exclusivity can enclose the plant.

Establish or designate a reference laboratory to perform the analytical work supporting the standard, to serve as the referee for a disputed result, and to publish its methods and characterization data.

Hold and make available physical reference materials for the reference standard: for a whole-plant preparation, a reference lot of the characterized preparation, with assigned values, a stated uncertainty, and a stated stability life; for a single cannabinoid or associated compound, a certified reference material where an accredited producer exists, and a reference material with assigned values otherwise. Make them available to any person at not more than cost and without restriction on their use, and retain a sample of each reference lot for its stability life for retesting and comparison. Where a reference material needed to show conformance is available only from a single private source, or from none, produce or procure a public equivalent within 12 months; a material is available only if it is offered at a published price on terms that permit its routine use. Commercial suppliers remain free to sell reference materials. Federal Sec. 6(12).

Leave every period of exclusivity untouched, including exclusivity for a new chemical entity, for a new clinical investigation, and for an orphan drug, and leave title to a subject invention under chapter 18 of title 35, United States Code, untouched. Publish nonclinical and clinical data from any study of cannabis, a cannabinoid, or a whole-plant preparation conducted or supported in whole or in part with federal funds under a funding agreement entered into after enactment, with participant-level data released only in de-identified form, through a repository with controlled access where the risk of re-identification requires. File chemistry, manufacturing, and controls data from such a study in a Type II Drug Master File, kept confidential, with a letter of authorization issued to any applicant on request, without royalty and at a published fee not exceeding the cost of maintaining the file, on the same terms for every applicant. Let any person rely on both in an application or submission to the Food and Drug Administration as if holding a right of reference, with each funding agreement granting that right. Privately funded data are not reached and no trade secret is published. Traditional, ceremonial, or community-held knowledge, and culturally sensitive information about a community, its practices, or its genetic resources, is published only with that community's authority, as determined under its own governance and given with free, prior, and informed consent, and de-identification does not satisfy that condition. Federal Sec. 6(13).

Recognize, and where nothing qualifies build, the reference standard and the registry in parallel with removal under section 3, each part prior art for what it characterizes from the date it is published, with certification as a milestone and a duty to report that holds nothing back. For [three] years, bar injunctions and enhanced damages against state-lawful activity begun before enactment, keeping a reasonable royalty for the patent owner, and count state-lawful use as commercial use for the prior-use defense under 35 U.S.C. 273. Federal Sec. 6(14), 6(15), 15(7).

That last paragraph is the one substantive change to the MORE Act's own timing, and it is the price of descheduling into a market where cannabinoid patents become enforceable the moment prohibition ends.

Section 7. Medical use as public-health infrastructure

Add a new section establishing the medical layer, on which the MORE Act is silent.

A person may engage in the medical use of cannabis on the authorization of an attending provider based on clinical assessment, for any condition the provider determines cannabis may benefit. No list of qualifying conditions is established, and authorization may not be conditioned on a pre-existing or continuing treatment relationship, on a minimum number of visits, or on the provider being of a particular specialty.

Enrollment carries no fee. Authorization may be delivered by telehealth on the same terms as in-person care, and

may be delivered within ordinary clinical care and billed and reimbursed as such, with pathways for insurance, public-payer and federal health-payer reimbursement.

A licensing board may not discipline a provider for authorizing, recommending or discussing the medical use of cannabis based on clinical assessment.

An authorization is effective for federal purposes, and a federal agency, a federally operated or federally funded care setting and a federal employer treat an authorized patient as such, including for care in the veterans' health system and for reimbursement.

Mutual recognition runs among the states operating on the one-plant frame, and a patient's authorization travels with the patient. A patient, and a person obtaining, transporting, preparing or administering cannabis for a patient at that patient's request, may do so, and carriage incident to the patient's own travel is not distribution.

A patient owns the patient's own health and outcomes data. Participation in any record is opt-in and revocable, reporting uses aggregate or de-identified data with disclosure controls, and no verification mechanism may be maintained as a registry of patients for law-enforcement purposes.

Section 8. Tax by intoxicating potential, at retail

Amend new section 5901 of the Internal Revenue Code, as added by section 5 of the MORE Act, in three respects.

Replace the rate structure. Strike the applicable percentage of removal price in subsection (b), which runs at 5, 6, 7 and then 8 percent over the first five years, and the applicable equivalent amount in subsection (c), which sets an applicable rate per ounce and an applicable rate per gram of tetrahydrocannabinol at 8 percent of a prevailing price the Secretary determines. Impose instead a single excise on herbal cannabis items at two tiers by intoxicating potential: a higher rate on intoxicating items and a lower rate on non-intoxicating items, regardless of whether an item was formerly designated hemp or marihuana. Material on the industrial track is not subject to the tax. Conform the exclusion of an FDA-approved article at section 5902(a)(1)(B) and (C), so that an approved drug product is not outside the base while the unbranded preparation of the same plant is inside it.

A per-gram-of-tetrahydrocannabinol rate prices one molecule rather than the effect of the item at the dose on its label. It taxes an item engineered to deliver its effect through other cannabinoids as though it were inert, which is the product engineering classification by intoxicating potential exists to catch, and it requires the Secretary to construct a national per-gram price for a molecule that trades as such only in the concentrate and isolate segment.

Replace the point of attachment in subsection (d). Strike the rule that the tax attaches as soon as a cannabis product is in existence, and impose the tax at retail only, with no tax on cultivation and no tax on a transfer between permittees. A production-stage tax pyramids through the supply chain and falls hardest on the operator least able to absorb it, which works against the market-opening the MORE Act's own section 7 is for.

Add a rate discipline and a scale graduation. Rates are set and periodically reviewed at a level that keeps the combined federal, state and local burden below the point at which price returns buyers to the unlicensed market, and an operator below a volume threshold pays a reduced rate on the portion below that threshold, available at each stage rather than at one stage alone, subject to an economic-substance rule so that the reduction is not obtained by arranging to appear small.

The Opportunity Trust Fund at new section 9512 and its allocation are unchanged. This section changes the base and the point of collection, not the destination.

Section 9. Protect the person at work

Amend section 3(g) and section 3(h), and the transportation amendments at section 3(c)(3) through (6).

Strike the authority at section 3(g) to continue including marijuana in federal employee drug testing notwithstanding this Act. Provide instead that the presence of a cannabinoid or its metabolite, without evidence of impairment, is not a basis for denying, conditioning, suspending or terminating federal employment, a federal contract or a federal benefit. For a security clearance, section 8(b) of the bill already bars a federal agency from using past or present cannabis use as criteria at all, and nothing in this section narrows it; where the two differ, section 8(b) governs.

Narrow the preserved transportation screening authority at section 3(c)(3) through (6) and section 3(h) to a federally mandated programme for a function determined by rule to be genuinely safety-critical, and direct each such programme toward validated all-cause impairment-based assessment as that assessment matures, measuring impairment from any cause rather than the presence of a particular substance.

Key the direction to the bill's own evidence base: the study on marijuana impairment required by section 16 and the workplace study required by section 17 report into the rulemaking under this section, so the transition from metabolite testing to all-cause impairment assessment runs on findings the MORE Act already commissions. Direct both studies to compare a single-constituent preparation against broad-spectrum and full-spectrum preparations at equivalent cannabinoid doses, and to report whether a concentration tracks impairment at all. Two 2026 trials show

the measure missing impairment in both directions. Wolinsky and colleagues in the Journal of Analytical Toxicology gave 60 adults 100 milligrams of cannabidiol with between zero and 3.7 milligrams of delta-9-tetrahydrocannabinol and found no significant difference from cannabidiol alone on any pharmacodynamic outcome, while urine tests at the federal cutoff turned positive from 1 milligram upward; their conclusion is that a positive urine delta-9-tetrahydrocannabinol test may result from low doses that do not produce intoxication or impairment. A randomized crossover trial in JAMA Network Open found the reverse, oral tetrahydrocannabinol degrading lane control at 10 and 20 milligrams while peak whole-blood concentrations stayed at 1.6 and 3.4 nanograms per millilitre, below the 5 nanogram line states use. A concentration can sit above a cutoff with no impairment and below one with impairment present.

A bill that ends the criminal penalty for conduct, expunges the conviction retroactively, and then preserves the employment penalty for the same conduct has not finished. This section finishes it.

Section 10. Impairment-first enforcement

Add a new section providing that for a federal purpose, impairment is established by demonstrated impairment at the time of the conduct and not by the presence of a cannabinoid or its metabolite alone, and that a federal programme conditioning a benefit, a licence or a status on cannabis abstinence requires an individualized finding rather than a blanket condition.

This supports section 9 of this package and the civil protections at sections 8 and 9 of the MORE Act, which otherwise rest on a definition of impairment the bill never supplies.

Section 11. Eligibility keyed to harm

Amend section 6(b). The access provisions at section 7 are not disturbed.

Strike the use of the Small Business Act term for a small business concern owned and controlled by socially and economically disadvantaged individuals as the eligibility criterion of the Cannabis Restorative Opportunity Program at section 6(b)(1), and strike from the menu at section 6(b)(2) the element at subparagraph (E) under which a grantee seats a cannabis licensing board reflective of the racial, ethnic, economic and gender composition of the eligible state or locality. Conform section 6(b)(2) so that a grantee adopts at least four of the four remaining elements.

Key eligibility and priority instead to the harm prohibition caused: a prior cannabis conviction or juvenile adjudication for conduct no longer punishable, residence in a community disproportionately subjected to cannabis enforcement, or status as a legacy operator or a small or independent operator. Retain in full the definition of an individual adversely impacted by the War on Drugs at section 6(b)(3)(B), which already keys to harm and to income and needs no change, and retain the requirement that a grantee's licensing programme minimize barriers for such individuals.

Provide that a benefit keyed to scale or to documented harm is not available where a person other than the one on whose qualification the benefit rests holds control or receives the predominant economic benefit.

This is a durability amendment and not a retreat. After Students for Fair Admissions a race-conscious licensing or capital preference is the provision an opponent enjoins, and the severability clause at section 12 means a successful challenge would leave the descheduling, the tax and the trust fund standing while striking the provisions that do the repair. Harm-based criteria reach substantially the same people, because the harm fell where the enforcement fell, and give a challenger nothing race-based to strike.

Section 12. Market entry, and the noncommercial ecosystem

Amend the entry conditions the MORE Act writes into the tax code, which select for scale and which work against the bill's own equitable-licensing purpose at section 6(b).

Strike the flat occupational tax at new section 5911 of the Internal Revenue Code, which imposes $1,000 per year for each premises at which the business is carried on, and the criminal penalty at section 5911(b), under which willful failure to pay it is punishable by a fine of up to $5,000 or two years' imprisonment. A flat per-premises charge falls hardest on the smallest operator as a share of revenue, and a custodial penalty attached to an unpaid registration fee is a criminal exposure for a bookkeeping failure. Replace it with a registration requirement and a fee graduated by the scale of the operation, enforced civilly.

Amend the bonded-premises rule at new section 5921(a), under which it is unlawful to plant, cultivate, harvest, grow, manufacture, produce, compound, convert, process, prepare or package any cannabis product anywhere other than on the bonded premises of an authorized cannabis production facility. Retain the personal and family use exception at section 5921(a)(3), which operates through the producer definition at section 5902(b)(2)(B), and extend it to the noncommercial ecosystem the framework protects: a patient, a designated caregiver cultivating or preparing for a patient, a member of the patient's household, and a cooperative and its growers within the noncommercial limits. As

drafted, a caregiver growing for one patient is an unpermitted producer of a taxable article.

Amend the permit grounds at new sections 5922 and 5923 so that a permit is not denied on a prediction that premises "will not be adequate to protect the revenue after commencing operations," which is a forecast rather than a finding, and so that the suspension ground at section 5923(b)(1)(D) rests on a documented failure rather than on the same forecast.

Limit new section 5933(a)(3), which reaches a person who, without any intent to defraud the United States, purchases, receives, possesses, offers for sale or sells a cannabis product that is not put up in a conforming package, to a person who packaged the product or who knew of the defect, so that a retailer is not exposed for a package it did not make.

Provide that authentication and reporting run on the inventory and reporting data new section 5931 already requires, and that no herbal cannabis item is required to pass through an intermediary to be authenticated or taxed.

Section 13. Relief delivered, not only granted

Amend section 10 to add the delivery machinery at Sections 8(8) through 8(15) of the standalone Federal Whole Plant Act, and to close two limits the section carries.

Add a joint delivery plan with named responsible officers and a published deadline, coordinating the review that section 10(a)(1) assigns to each federal district separately.

Add a duty on each agency holding a record of a relieved offence to update, seal or remove it and to transmit the correction to every agency, database and vendor that received it. Section 10(e)(2) defines expunge as removal from each official index or public record, which does not reach the commercial background-check files that resell the record.

Add a bar on a United States Attorney adopting a policy of opposing relief as a class, with an opposition in an individual case stated on the record; cancellation of an unpaid fine, cost, fee, assessment or restitution arising solely from a relieved offence and vacatur of a judgment or garnishment entered to collect it; reach to a school or institutional record derived from a cannabis offence; and the rule that a person may not be required to terminate an employee on the ground that the employee holds a relieved offence. Section 10(c) states the rest of the effect of relief and is retained.

Strike the limitation of sections 10(a) and 10(b) to a non-violent federal cannabis offence, so that relief reaches a cannabis offence that is no longer punishable under this Act whatever else was charged alongside it, and provide that a companion count not made lawful by this Act is unaffected.

Amend the exception at section 10(d), which makes a person ineligible for expungement on an aggravating-role adjustment under Sentencing Guideline 3B1.1(a) with no route back, so that the court conducting the sentencing review under section 10(b) may find mitigating factors warranting relief, including the person's age at the time of the offence, the person's role in it, and whether it was a first offence. CAOA's equivalent carve-out at least allows that finding; this one does not.

Section 14. Conforming amendments

Conform the trust fund cross-references. New section 9512(c)(1) directs 50 percent of the Opportunity Trust Fund to the Attorney General to carry out "section 3052(a) of part OO of the Omnibus Crime Control and Safe Streets Act of 1968," and section 9512(c)(2) directs 10 percent to carry out section 3052(b) of the same part. Section 6(a)(2) of the bill creates part PP, sections 3056 through 3058, and new section 3057 directs the Director to carry out the program using funds made available under section 9512(c)(1) and (2). The expenditure authority and the program it funds cite each other across a numbering that does not match. Conform section 9512(c)(1) and (2) to part PP, section 3056(a) and (b).

Conform the public-meeting requirement at section 3(f), which directs not less than one public meeting within a year on the regulation, safety, manufacturing, product quality, marketing, labeling and sale of cannabis products, so that it is the first step of the standard-setting under Section 4 of this package and recurs before the national standard is first adopted and before a revision that materially changes a classification threshold.

Conform the definitions of cannabis at section 7(a), which adds section 3(gg) to the Small Business Act, and at section 9(b), each of which excludes hemp as defined in section 297A of the Agricultural Marketing Act of 1946 and excludes an approved drug product, so that both follow the single botanical input established under Section 3 of this package. A benefit or a protection should not turn on which plant the item came from any more than a penalty should.

Direct that the impairment study at section 16 and the workplace study at section 17 publish their data and methods, so that no proprietary method becomes the condition of proving or disproving impairment, and that an agency operating a federally mandated testing program report biennially on its progress toward impairment-based standards

measured against them. This is Section 9(9) of the standalone Federal Whole Plant Act, built on the studies the MORE Act already funds.

Section 15. Congruence and transition

The provisions added by this package take effect on the schedule the MORE Act sets for its own, except that the standards under section 4 take effect on a schedule the lead regulator sets with an outside date.

The preserved pre-enactment marihuana definition at section 3(g)(2) and section 3(h)(2) operates only until the standards under section 4 take effect, and is repealed on that date.

A person operating lawfully before the effective date transitions into the corresponding role without loss of standing, and a gap in the standards does not invalidate activity lawfully commenced.

Where this package and the standalone Federal Whole Plant Act would differ, the standalone Act governs. Where this package and the MORE Act conflict, this package governs for the provisions it amends and the MORE Act governs for the rest.

This package may be adopted in whole or in part. Sections 8, 9, 11, 12, 13 and 14 are amendments to provisions the MORE Act already contains and can be taken on their own; Sections 12, 13 and 14 in particular are corrections a sponsor would want whether or not the regulatory layer moves. Sections 4 through 7 and Section 10 add a layer the MORE Act does not contain and can be taken as a group or deferred to a separate vehicle without disturbing anything the MORE Act does.