

Written Testimony
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New York State Senate Cannabis Hearing
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Thank you, Senate Cannabis Subcommittee Chair Jeremy Cooney, and Committee Chairs Krueger, Hinchey, and Skoufis, for convening this Joint Public Hearing to examine issues in the New York State market related to consumer accessibility and the retail sale of legal adult-use cannabis.

My name is Ali Amirhooshmand, and I serve as Head of Government Relations at Dutchie, a leading all-in-one technology platform powering the legal, licensed cannabis industry. Our services include Point of Sale, Ecommerce, Payments, and Insurance. We support over 6,000 dispensaries across the United States and Canada, and work with over 80% of all licensed, legal dispensaries in New York.

Dutchie is honored to have been selected to be the exclusive provider of technology and point-of-sale (POS) hardware solutions for the state's Social Equity fund servicing Conditional Adult-Use Retail Dispensary (CAURD) licensees. We take pride in the fact that we are offering our software to those most harmed by the war on drugs at no cost - helping to advance the state's social equity goals..

While CAURD licensees have experienced challenges, discussed at length today, entering the marketplace, numerous other obstacles still hinder their growth and success.

Due to the federal illegality of cannabis, banks are hesitant to provide services to cannabis businesses, fearing penalties. This situation leaves the legal cannabis industry without access to traditional banking services, making it difficult to obtain loans and other forms of financing from conventional banks.

Moreover, because of the lack of federal policy movement on cannabis reform and inconsistencies between state and federal policy, many banks and payment networks either refuse or have ceased to offer payment processing services to legal, state-licensed cannabis businesses, despite legalization at the state and local levels.

Consequently, dispensaries face significant challenges in managing cash flow, paying taxes, and accessing loans or other forms of capital. Most are compelled to operate on a cash-only or cash-heavy basis, which is inconvenient, unsafe, and inefficient.

That's why one of Dutchie's top policy priorities is advocating for the passage of the SAFE Banking Act. This legislation, currently introduced in Congress, would provide safe harbor protections for depository institutions and financial service providers working with state-legal cannabis businesses. The bill is a crucial step toward addressing the challenges faced by the legal cannabis industry and promoting a more equitable and regulated market. We continue to engage the New York congressional delegation to ensure their support of SAFE.

An additional, and sometimes catastrophic challenge facing operators is Section 280E of the Internal Revenue Code. This section prevents businesses selling legal cannabis products from deducting ordinary and necessary business expenses, such as rent, salaries, and utilities. This significantly increases their tax liability and hampers their ability to compete with the illicit market.

However, one of the greatest threats to our operators is the delayed launch of New York's legal cannabis market. This delay has allowed illegal, unlicensed operators to proliferate throughout the state, providing products of unknown quality and safety while siphoning consumers from state sanctioned operators.

Legal cannabis products are often more expensive than illicit ones due to high costs associated with licensing, testing, taxes, and compliance with regulations. This pricing disparity makes it challenging for legal dispensaries to attract price-sensitive consumers. However, consumers should be aware that illegal products may not meet strict state testing standards and could be tainted with mold, pesticides, heavy metals, etc.

A 2022 study by the New York Medical Cannabis Industry Association, which tested products from 20 illicit stores in New York City, found that about 40% contained harmful contaminants such as E. coli, lead, and salmonella.¹

How significant is the illicit market threat in New York State? The New York City Independent Budget Office estimates that approximately 1,500 unlicensed retailers in the city may hold cannabis products worth as much as \$484 million. If sold legally, these sales could generate \$19.4 million in revenue for New York City, according to the report, and far more for the state.

Dutchie commends the State's efforts to combat illegal operators. We recommend that the Legislature and OCM implement policies to expedite the opening of more legal dispensaries and increase cannabis availability. This approach would likely reduce the reliance on the illicit market.

¹ [NYC Illicit Cannabis Market Design 11.29.22](#)

To combat illegal operators effectively, we must secure a sustainable adult-use market through enforcement and the closure of all non-licensed retail cannabis businesses. This includes deputizing local law enforcement to free up resources for the OCM and expanding the OCM's enforcement capacity to effectively curtail the proliferation of unlicensed operators.

Additionally, the state should discourage technology companies and payment providers from supporting these illegal operations. Targeting online platforms that advertise these businesses, along with imposing fines and civil actions, is also crucial and significantly hampers their sales.

Alongside enforcement, educating consumers about the illegal market is essential. For example, California has implemented a public education and outreach campaign to inform consumers about the dangers of purchasing cannabis from illicit sources and to encourage legal and tested purchases.

As more legal dispensaries open in New York and a broader range of cannabis products become available, New Yorkers will be less inclined to turn to the illicit market. Reducing the demand for illicit cannabis will, in turn, make it more challenging for illicit businesses to operate.

We appreciate your attention to this critical matter and look forward to partnering with you and legal operators to ensure the success and growth of the cannabis industry in New York.