



ILLUSTRATION BY JEFF DREW

Local marijuana retailers struggle with green money due to federal regulations

BY HENRY HOUSTON

Marijuana has been legal in Oregon for recreational use since 2015, and retail stores have been offering customers weed here since 2017.

But marijuana-related businesses have a problem in Oregon: How do you function without a bank account?

Every business has bills to pay and, without a bank account, many legal marijuana businesses are left scrambling for ways to pay their debts.

For Joseph Hopkins, owner of The Greener Side, it's been difficult running a cannabis business without access to a bank account. He says he can't access bank loans or pay his bills like any other normal business. The result, he adds, is an increase in his labor costs, security concerns and an overall public safety issue.

"If we have to pay a bill for packaging that's out of state, we have to get money orders," he says. "Getting money orders is a big issue because you can only get so much money on a money order and only get so many at each location."

That means Hopkins and his staff have to hop in a car and drive around Eugene to collect money orders to pay bills and taxes, rather than just writing a check or using a debit card.

"It's nerve-racking, driving around with rent money," he adds.

Janice Grossman, owner of Oregon's Green Rush, says the regulations have resulted in banks' closing her accounts — personal and business. Once her bank found out the property she owns houses a dispensary, it closed her account, making it difficult to pay her mortgage.

"To pay for the mortgage, I have to get hard money loans," she says. "The interest rates are 12 to 15 percent. My mortgage is 4 to 5 percent. I'm getting hit really hard."

Grossman adds that to pay her employees, she relies on cash — although her employees would prefer a check or direct deposit. Every month, when she has to pay her taxes, she says she or an employee has to drive to Salem with the cash.

Grossman isn't alone. Right now the current cash fraction of marijuana tax revenue is about 47 percent, according to an official with the Oregon Department of Revenue. However, that number doesn't include money orders.

Over time, the cash fraction has decreased. Last year it was about 60 percent. Regardless, it's still more than what the department has been used to.

"Even a 47 percent cash fraction is a huge change to what we're used to," says Joy Krawczyk, a spokeswoman with the Department of Revenue.

Before the agency had to deal with marijuana tax money, the amount of cash used to pay taxes was around 1 percent. That means the revenue department had to build a new payment center, a facility to store and count the cash, hire accounting staff to process the payments and increase the presence of security.

A handful of banks offer services to marijuana businesses, but the cost is high.

"The average cost of maintaining a bank account (for a marijuana business) is about \$1,500 a month," says Don Morse, chairman of Oregon Cannabis Business Council. "That's a lot of money just to take deposits and write checks."

The reason the cost is so high is that businesses have to keep track of transactions. Morse says tracking basically requires a full-time staff person because banks require a paper trail detailing where the money came from. This report is sent to the bank and then the federal government — although Morse says he doesn't think anyone actually reads it.

One way some marijuana businesses get around this is by establishing a shell company paying bills and writing checks, Morse says.

But, he adds, this is basically money laundering.

Without access to banking services, it's risky for an industry to operate in cash, says Linda Navarro, president and CEO of Oregon Bankers Association.

"It doesn't provide recordkeeping that everyone from Department of Revenue to auditors would like to see," Navarro says. "Our position is that if an industry should operate, it should have access to banking, especially depository."

The federal government has tried to provide some guidance to banks in dealing with marijuana-related businesses. The Cole Memo, issued during the Obama administration, was intended to protect states that legalized marijuana from federal interference.

Earlier in 2018, under Donald Trump, Attorney General Jeff Sessions rescinded the memo.

The U.S. Department of Justice declined comment to *Eugene Weekly* and instead referred to Sessions' memo on marijuana enforcement released January 2018. It announced the return to a prohibition of cultivation, distribution and possession of marijuana to "disrupt criminal organizations, tackle the growing drug crisis, and thwart violent crime across our country."

"Sessions is an intense opponent of cannabis," Sen. Jeff Merkley tells *EW*. "In my mind, he's damaging public

safety. When you have a large unbanked enterprise, you have billions of dollars floating in backpacks. You're inviting people to cheat on their payments to their employees; employees cheat on their taxes because it's not all electronically determined."

Merkley says Sessions doesn't have a public safety argument for rescinding the Cole Memo and denying banking services to marijuana-related businesses. To really take on the criminal enterprise that Sessions cites in his memo, banking services should be available in order that cash can be accounted for.

Providing marijuana businesses with access to banking services is something the senator is working on. Merkley sponsored the Secure and Fair Enforcement Banking Act in 2017, which would prevent federal officials from punishing banks for providing depository services to a legal cannabis-related business. The bill is getting bipartisan support since more states are legalizing marijuana, Merkley adds.

To do that, banks need legislation that provides guidance, Navarro of Oregon Bankers says. Federal banking regulations don't just impact businesses that deal exclusively with marijuana. A lot of businesses indirectly involved with the marijuana industry have lost banking services, she adds.

"For the banking industry, it's unclear where you draw the line in marijuana activity," Navarro says. "Where do you draw the line? Banks have to figure out how to deal with the ancillary."

Removing marijuana as a Schedule 1 drug would essentially eliminate all of the hurdles confronting marijuana businesses. Navarro says that until marijuana is no longer a Schedule 1 drug, it will be difficult for banks to work with them.

Although Navarro says she doesn't think that's a likely scenario, Merkley says it's gaining traction. For now, all the senator can do is deny government use of funds to interfere with banks and credit unions, which he says can be an effective strategy.

As long as the federal government continues to impact the marijuana industry's ability to bank, the results extend beyond the problems for cannabis-based businesses. The economy suffers, too.

"Imagine all the money that people have in cash that they're stashing in the state of Oregon," Morse says. "If that money were in a bank, they would lend it out. It would be a healthy economic engine for the state. Instead, it stays hidden." ■