

CONSTRUCTION INDUSTRY SAFETY COALITION

December 1, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy:

We write on behalf of the Construction Industry Safety Coalition (CISC) to express our views on H.R. 3884, the *Marijuana Opportunity, Reinvestment and Expungement (MORE) Act*.

The CISC is comprised of trade associations representing businesses performing construction work in the commercial, residential, and industrial sectors and frequently provides comment and expertise on regulatory actions impacting safety and health. Our coalition speaks for small, medium, and large contractors; general contractors; subcontractors; and union contractors alike. The CISC is concerned the removal of marijuana from the Controlled Substances Act (CSA) and a lack of adequate real-time intoxication testing technology would jeopardize worker and public safety on and around construction job sites.

Work in the construction industry entails hazardous tasks with numerous laws, regulations and industry best practices to protect workers and the public. While it is reasonable and responsible for employers to ban marijuana during work hours, on-demand testing for marijuana impairment does not currently exist and impairment can last beyond the subjective high or simple observation tactics. As a result, many employers go beyond the prescriptive steps and implement zero tolerance drug policies. Any relaxing of federal drug restrictions by Congress must ensure the ability of employers to continue instituting zero tolerance policies that are free from labor and employment law liability.

States' legalization of marijuana has already created complex challenges for employers wishing to maintain a drug-free workforce while following employment laws. Federally declassifying marijuana as an illegal drug would only further complicate employers' compliance concerns. For example, the Americans with Disabilities Act (ADA) requires that employers make reasonable accommodations for their workers who may require potentially impairing medication to treat a medical condition. While medical marijuana use may be permitted by a state, the ADA defines "illegal drugs" on a federal level. Removal of marijuana from the CSA could create conflict for employers who are simultaneously attempting to ensure a safe worksite and meet their obligations under the ADA.

The CISC cautions against advancing the *MORE Act* too quickly without adequate consideration of its real-world implications for workplace safety, and encourages Congress

to further study the impact of decriminalization on job site safety and the ability of employers to protect their workers.

Thank you for considering our views.

Sincerely,

American Road & Transportation Builders Association
American Society of Concrete Contractors
American Subcontractors Association
Associated Builders and Contractors
Associated General Contractors
Association of the Wall and Ceiling Industry
Construction & Demolition Recycling Association
Distribution Contractors Association
FCA International
Independent Electrical Contractors
Leading Builders of America
Mason Contractors Association of America
Mechanical Contractors Association of America
National Association of Home Builders
National Demolition Association
National Electrical Contractors Association
National Roofing Contractors Association
National Utility Contractors Association
Natural Stone Council
The Association of Union Constructors
Tile Roofing Industry Alliance