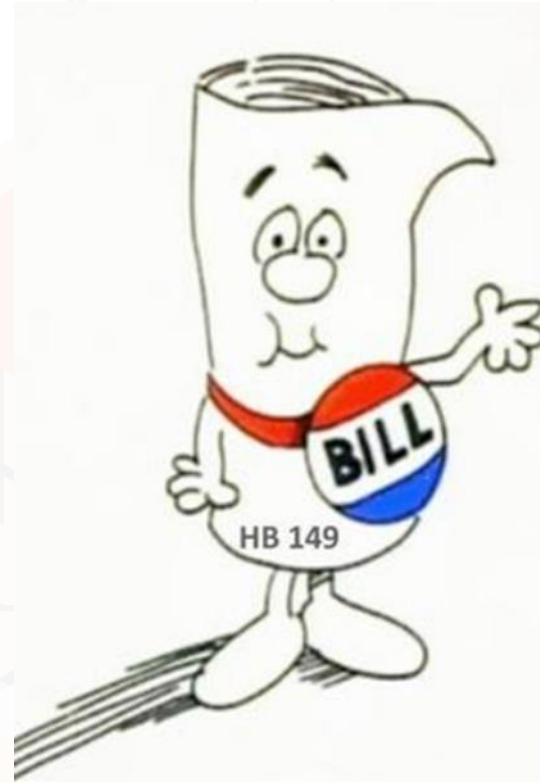


LEGISLATIVE & REGULATORY AFFAIRS

PIRC CHI OCT 2019



OBSERVATIONS & REPORT ON INITIATIVES

*To conserve resources, print handouts of these slides will be available upon request.*

# UN SCIENTIFIC METHOD

STEP 1 - DEFINE QUESTION

STEP 2 - FORM HYPOTHESIS

STEP 3 - PERFORM TEST

STEP 4 - ANALYZE DATA AND DRAW CONCLUSION

STEP 5 - ~~REPORT YOUR RESULTS~~

STEP 6 - ~~REPEAT AND VERIFY~~

ignore contrary evidence  
silence critics  
scare the public  
enact legislation

## Bill of Fare

CANNABIS

CALIFORNIA DREAMIN

MILITARY HOUSING

LEAD - AN UPDATE AND A REMINDER



# PIRC CHI OCT 2019

# STATUS OF STATE LEGISLATURES

## STATE LEGISLATURES



NORMAL FOR A PAUSE IN AUTUMN IN MANY STATES,.....MOST STATE LEGISLATURES DON'T RESUME EARLIER THAN JANUARY BUT IT MIGHT NOT MATTER MUCH....



# Diminished Expectations

- ELECTION YEAR PARALYSIS MODE
- 14 WEEKS TO IOWA CAUCUS (FEB 3)
- 369 DAYS TO ELECTION
- AT STATE & FEDERAL LEVEL, NOW IS WHEN CALCIFICATION OF THE PROCESS BEGINS
- THE PROBABILITY OF PASSAGE, AND THE OPPORTUNITY FOR INTRODUCTION, IS ALREADY DROPPING
- MORE PARTISAN THE CLIMATE, MORE EACH SIDE *AND* NEUTRALS (AND THEIR BUDGETS) RETREAT TO SIDELINES TO AWAIT A WINNER
- IMPEACHMENT INQUIRY: HYPERPARTISAN, UNPRECEDENTED



# Diminished Expectations



- GOING TO TRY AND INCORPORATE MORE NORTH OF THE BORDER CONTENT NOW THAT WE HAVE A CANADIAN PIECE IN THE ICP MACHINE
- CANADA HAS ELECTION YEAR PARALYSIS TOO, BUT FOR DIFFERENT REASONS
- CANADA ELECTION IN OCTOBER YIELDS A WIN FOR TRUDEAU, BUT A MINORITY GOVERNMENT
- NOT AUSPICIOUS: LAST MINORITY GOV LASTED 9 MONTHS (CONSERVATIVES)
- TOXICITY NORTH TOO: “Trudeau proclaimed this most recent election one of the “nastiest in Canadian history” – Boston Globe
- CANADA HAS HAD 19 FEDERAL ELECTIONS IN LAST SEVEN YEARS





**STATUS REPORT-  
THE BANKING BILL**

**ON 9/25/19, THE SAFE BANKING ACT,**

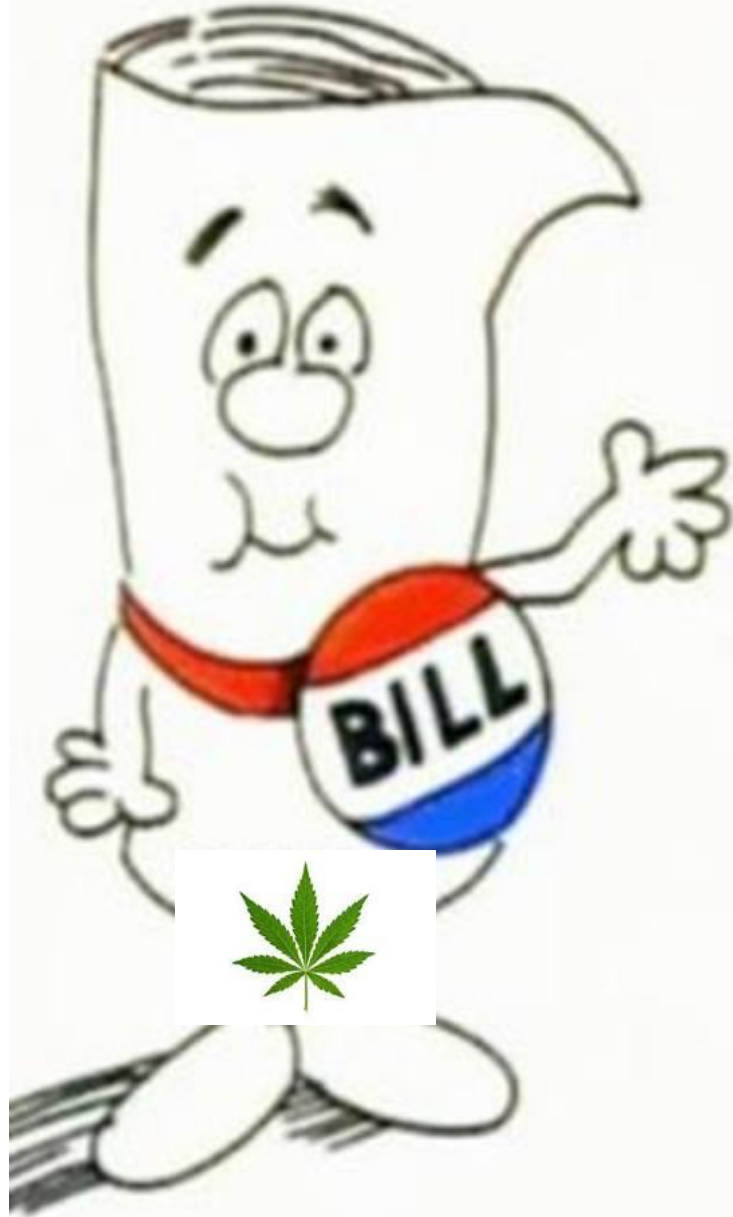
**WHICH SHIELDS BANKS THAT WORK WITH LEGAL CANNABIS BUSINESSES,  
LARGELY BY DETERRING FEDERAL BANKING REGULATORS, PASSED  
THE HOUSE AND MOVED ON TO THE SENATE**



# BREAKING NEWS – THE BANKING BILL

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- **H.R. 1595, the Secure and Fair Enforcement (SAFE) Banking Act of 2019 – It has 151 cosponsors**
- This is the **first time in history** that a cannabis banking bill has reached this point in the legislative process.
- A floor vote from the full House 321-103 with 91 Republicans joining 230 Democrats in a rare somewhat bipartisan vote
- Moves on referred to the Senate Banking Committee



# BREAKING NEWS THE BANKING BILL

- The bill would help protect agents and brokers who write insurance coverage for legitimate cannabis-related businesses from criminal prosecution and civil liability
- *The bill is one of a few pieces of legislation that could benefit those in the insurance industry selling or wishing to get into the business of selling insurance to cannabis businesses.* – Dan Jergler, Insurance Journal
- **Reasons for Pessimism: Mitch McConnell**



# MODIFICATION ON MARIJUANA FOR MAJORITY LEADER?



- Strong supporter of Hemp (2018 Farm Bill)
- Vocal would not support further legalization
- “Hemp’s illicit cousin”
- October 10 – Quiet visit by McConnell with MJBiz execs in SoCal and tour of cannabis cultivation facility
- Same week, Fox personality Laura Ingraham urged rejection of banking bill:
  - *“Commercialization not popular with Republican base, terrible for our youth. Opening up banking to the pot industry will effectively legalize pot nationally.”*
  - 2019 Gallup poll of Republicans: 53% support legalization
  - And in a tweet: legalization = more \$ for Democrats




TUCKER CARLSON CALLS BANKING BILL “DUMB”

# C.L.A.I.M. INTRODUCED IN CONGRESS

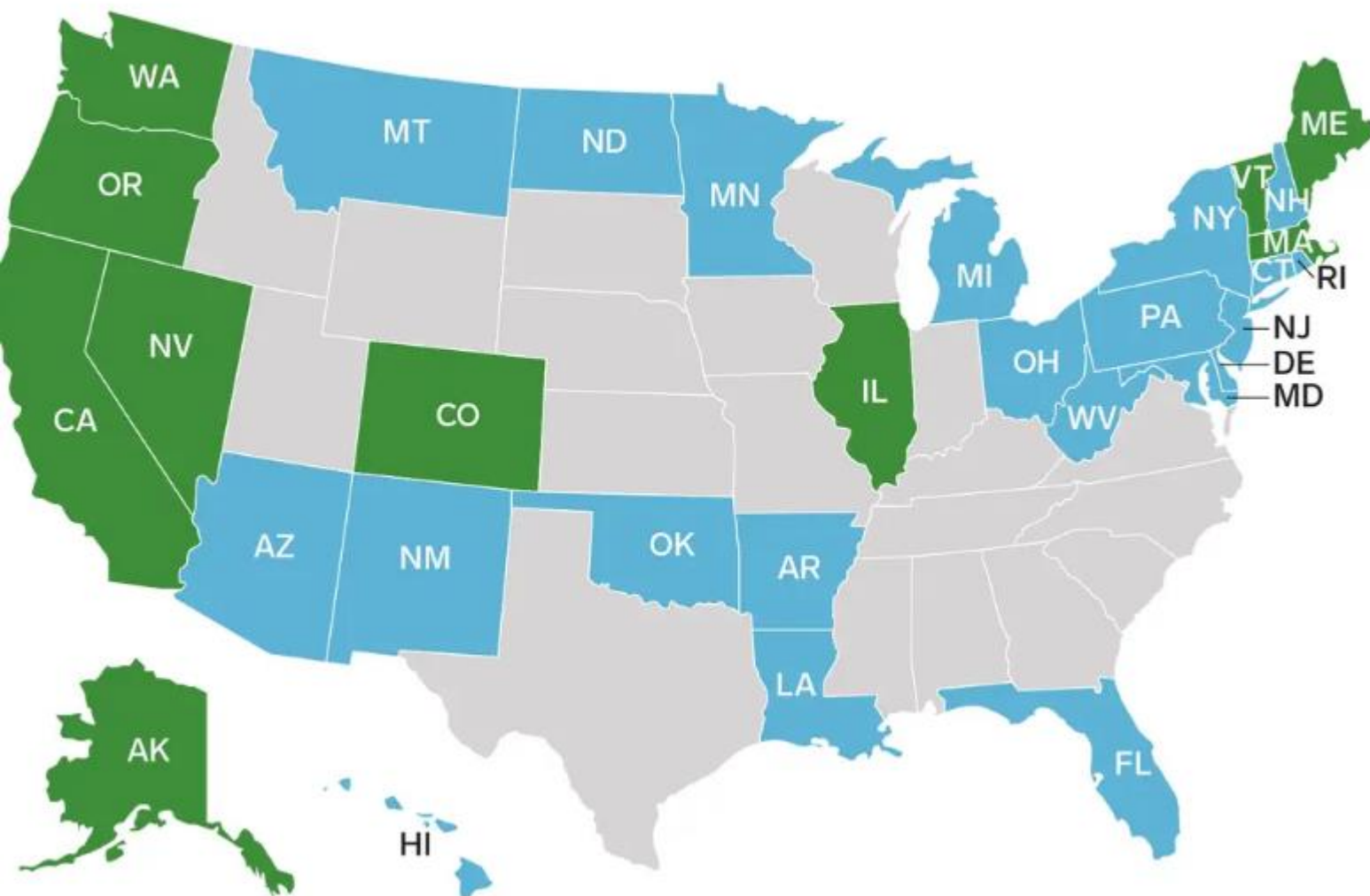
- Clarifying Law Around Insurance of Marijuana Act
- Introduced July 22
  - US Sen. Bob Menendez, D-NJ
  - U.S. Rep. Nydia Velázquez, D-N.Y & and Rep. Steve Stivers, R-Ohio
  - H.R. 4074, and Senate Bill 2201,
- An insurer engaging in business ....in the cannabis sector ... “in a transaction permissible under state law related to cannabis..... may not be held liable pursuant to any Federal law.”
- S.B. 2201 is co-sponsored by a bipartisan coalition including Sens. Rand Paul, R-Ken., Jeff Merkley, D-Ore., and Kevin Cramer, D-N.D.
- S.B. 2201 was referred to the Committee on Banking, Housing, and Urban Affairs. H.R. 4074 was referred to the House Committee on Financial Services

- **Strengthening the Tenth Amendment Through Entrusting States (STATES) Act**
- S.3032
- Reintroduced 2019 by Elizabeth Warren (D-MA) and Cory Gardner (R-CO)
- H. 2093
- David Joyce (R-OH) and Earl Blumenauer (D-OR) intro'd companion bill in House
- Would amend the Controlled Substances Act of 1970 to exempt from federal enforcement individuals or corporations in states who are in compliance with laws on cannabis, with certain additional provisions such as minimum ages
- President Donald Trump said he "probably will end up supporting" the bill on June 8, 2018
- Latest Action: House - 05/15/2019 Referred to the Subcommittee on Crime, Terrorism, and Homeland Security.
- Latest Action: Senate - 04/04/2019 Read twice and referred to the Committee on the Judiciary

STATES ACT –  
BROAD LEGALIZATION



■ Legalized recreational and medical marijuana
 ■ Legalized medical marijuana



# Legalization Map

Illinois 1/1/2020: first state to legalize marijuana sales through the state legislature

- In last year's midterm elections, Michigan [became the 10th state to legalize recreational marijuana](#),
- Oklahoma, Utah and Missouri legalize medical marijuana And,

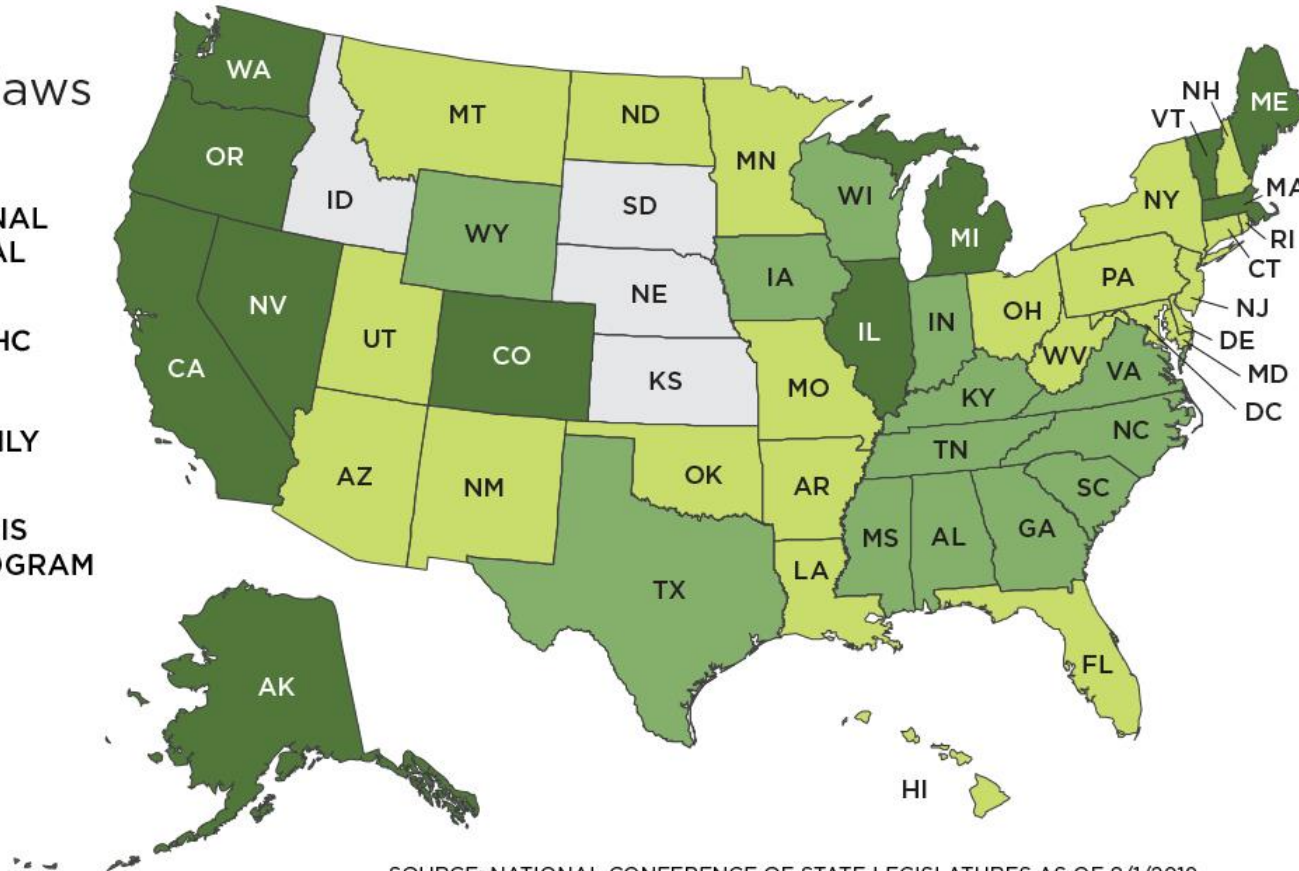
President Trump also [signed the bipartisan Farm Bill into law last December](#), which legalized hemp

From Business Insider

# Legalization Map

Current marijuana laws by state

- RECREATIONAL AND MEDICAL
- CBD/LOW THC
- MEDICAL ONLY
- NO CANNABIS ACCESS PROGRAM



SOURCE: NATIONAL CONFERENCE OF STATE LEGISLATURES AS OF 8/1/2019

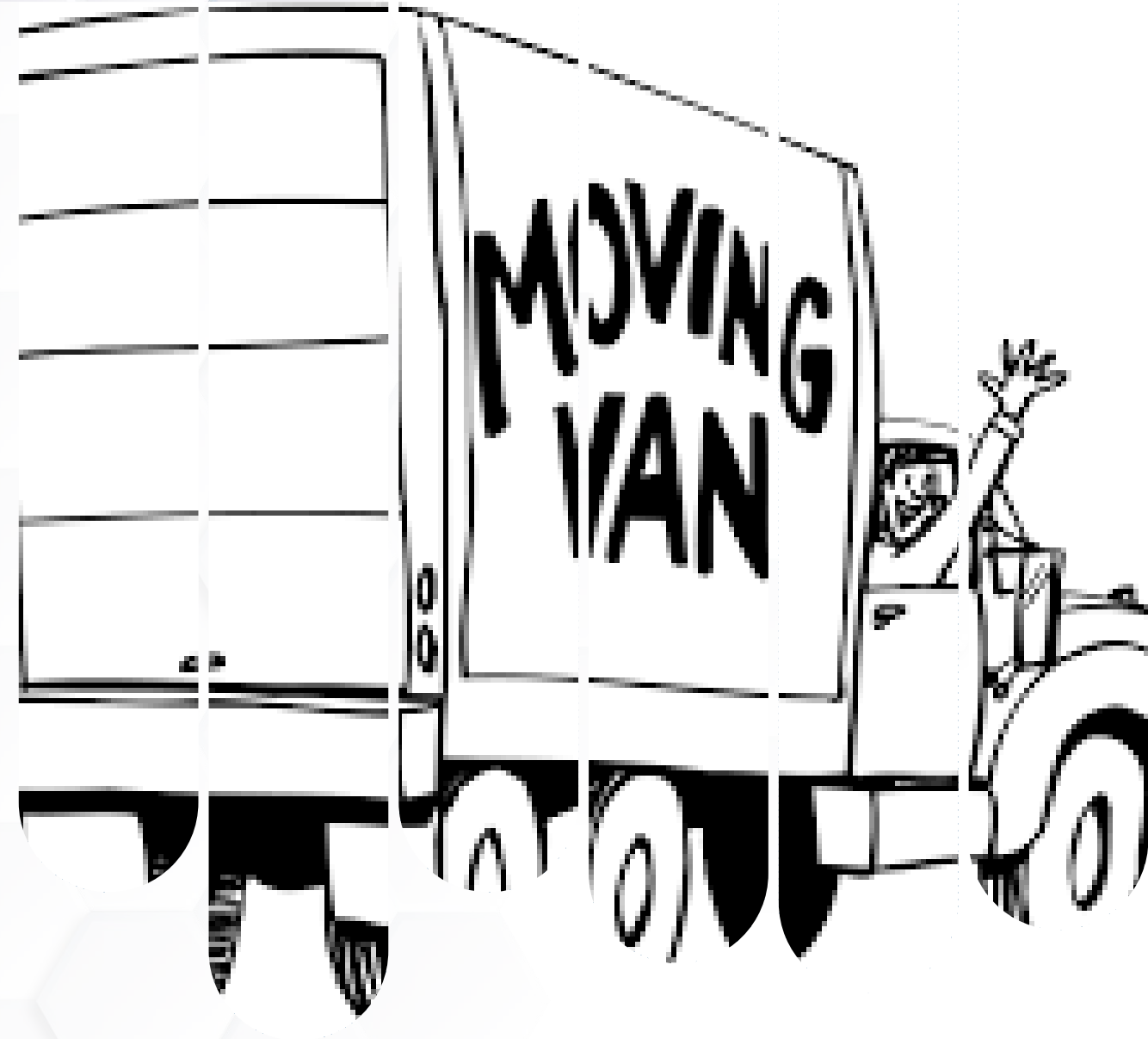
from Marijuana Policy Project

2020 – Probable legalization states despite election year paralysis:

- CT
  - 4 bills inc 1<sup>st</sup> to House floor
- DE
  - 4 votes short
- NH
  - House vote successful, but delay implemented to wait for study report from cannabis commission
- NJ
  - Gov had promised 1<sup>st</sup> 100 days, and legislature never sleeps, so could be in EOY play

## For discussion: Unintended Consequences

An implementation of consumer fraud protections in California presents unintended existential threat to restoration industry



# CA SB 19 - SOME BACKGROUND

The **California Household Mover Act- (SB 19)** was signed into law on October 2, 2017 and became effective January 1, 2018.

The Act was created in part to address **consumer complaints about “bad actor” moving companies holding goods/property hostage, charging exorbitant prices for moves, and/or engaging in other bad faith actions.** The Act also transfers authority over Household Movers from the CA PUC to the **Bureau of Household Goods and Services** (Bureau), under the Dept of Consumer Affairs.

The Bureau regulates how much household movers can charge for its services. The maximum rates a mover can charge in CA are found in the **Max Rate 4 Tariff**. (10 pgs of pricing rules and rates developed for traditional moving companies).

Under the Act, “household mover” is defined as “...every corporation or person, their lessees, trustee, receivers, or trustees appointed by any court whatsoever, engaged in the permitted or unpermitted transportation for compensation or hire as a business by means of a motor vehicle or motor vehicles being used in the transportation of used household goods and personal effects over any public highway in the state...”.



# INCLUSION OF RESTORATION



OFF-RADAR, UNRELATED UNTIL PRESS RELEASES SPECIFICALLY MENTION RESTORATION COMPANIES



BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.  
**OFFICE OF PUBLIC AFFAIRS**  
1625 North Market Boulevard, Suite N-323, Sacramento, CA 95834  
P (916) 574-8170 F (916) 574-8612 | www.dca.ca.gov



BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR  
**DEPARTMENT OF CONSUMER AFFAIRS • BUREAU OF HOUSEHOLD GOODS AND SERVICES**  
4244 South Market Court, Suite D, Sacramento, CA 95834  
P (916) 999-2041 | F (916) 921-7279 | www.bearhfti.ca.gov



## NEWS RELEASE

**FOR IMMEDIATE RELEASE**  
August 9, 2018

Contact: Matt Woodcheke  
(916) 574-8170

### REGULATOR SHINES SPOTLIGHT ON DAMAGE RESTORATION COMPANIES, INTERSTATE MOVERS

*Regulating body begins new enforcement effort of existing law*

SACRAMENTO—If you’re moving within (“intrastate”) or out of state (“interstate”), or if a **damage restoration company** is moving or storing your goods while rebuilding your home, did you know there are laws protecting you from predatory “bandit” companies that extort money from customers while holding goods hostage?

## NEWS RELEASE

**FOR IMMEDIATE RELEASE**  
May 30, 2019

Contact: Matt Woodcheke  
(916) 574-8170

### CONSUMERS ADVISED TO CHECK LICENSE ON DAMAGE RESTORATION COMPANIES

*Regulating body begins new enforcement effort of existing law*

SACRAMENTO—If you’re working with a **damage restoration company**, the chances are you’ve already been the victim of a catastrophe. **But if a damage restoration company moves and stores your goods while restoration work is performed**, they are obligated to follow the same laws and regulations that govern household moving companies, protecting you from predatory “bandit” companies that extort money from customers while holding goods hostage.

Damage restoration companies that move and store their clients’ goods while a restoration project is underway are required to be licensed by the Department of Consumer Affairs’ Bureau of Household Goods and Services (BHGS).



# ISSUES & IMPACTS

## Issues

Permit- obtaining a permit under the Act requires a demonstrated working knowledge of the Max 4.

Max 4 vs. Xactimate – different pricing platform for different services. Apples to oranges.

Permitting is generally a non-issue....

Implementation of permit requirements do not align with current billing practices at all.

The most basic issue of “how” to blend rates from different industries is our top discussion point



## Potential Impacts

- Delay in services provided
- Delay = promotion of mold and further degradation of structure
- Adjusters/Admin personnel will need training on Max 4
- If “transportation” given to 3<sup>rd</sup> party.. delayed response times, lack of training in fire/soot/water/sewage /biohazard/crime scene conditions; liability for lost/stolen/damaged goods...etc.
- Awareness of applicability to restoration is lacking

# Thus far



## TO-DO - DONE SO FAR

### Meetings (going thru channels)

- BUREAU OF HOUSEHOLD GOODS AND SERVICES – Less than concerned. Resistant to change. Did not identify when or why restoration companies were included and highlighted
- Next Step Up: DEPARTMENT OF CONSUMER AFFAIRS – More receptive, and discussions may proceed positively, but bureaucracy, like NFL, reluctant to overturn a call made on the field without compelling or compelled
- Legislative Remedy: Discussed concerns with original bill sponsor. Confirmed again, alongside legislative history, that inclusion of restoration contractors was not original intent, and no explanation as why or where inserted into process.
- Amended Legislation? California legislature just went out of session. Reconvenes Jan 6. Would need sponsor, for which draft is needed. Optimistic expectation for a legal fix: late Summer 2020.

*In California, a contract to clean up water damage in residential apartments constitutes a “Home Improvement Contract” under Business & Professions Code § 7151.2. As such, a contractor is required to estimate the cost of the work that will be performed and provide a description of that work before work begins. Bus. & Prof. Code §§ 7151.2, 7159, 7159.5 & 7159.10. They also must provide that estimate in a written contract, have the customer execute the contract, and provide the customer a fully executed copy of the agreement before work begins. Id. The general rule is that “a contract made in violation of a regulatory statute is void.” Hinerfeld-Ward, Inc. v. Lipian, 188 Cal. App. 4th 86 (2010).*

### BSR/IICRC S700 Standard for Professional Fire & Smoke Damage Restoration.

- Underway late summer 2019
- No longer accepting applications. Subcommittees may invite qualified volunteers]

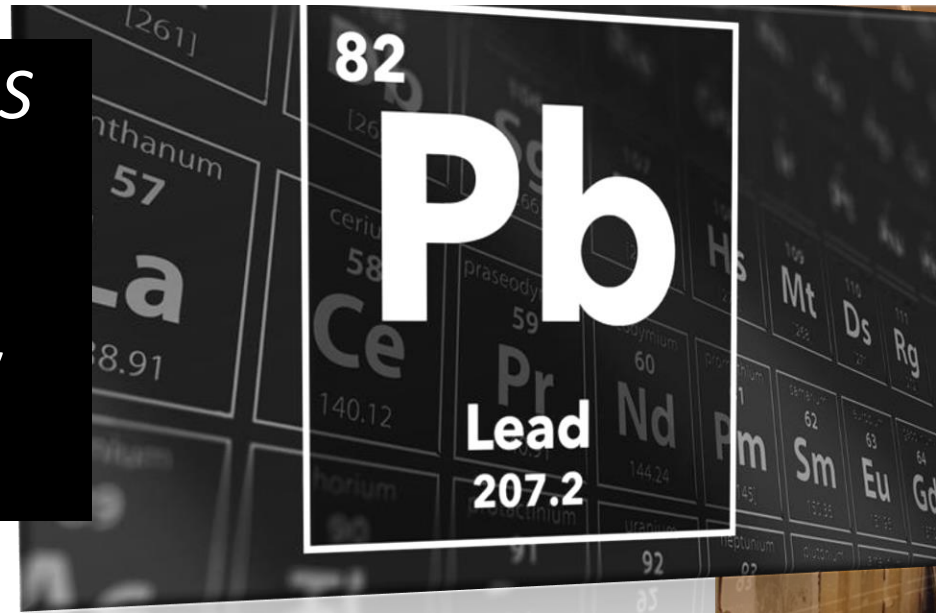
### IICRC has commenced BSR/IICRC S710 Standard for the Development of a Scope of Work in a Fire & Smoke Damaged Environment.

- ...will provide a specific set of practical standards for the development of a scope of work in a fire and smoke damaged environment.
- *The application deadline for the S710 is December 31, 2019.*

### IICRC is preparing BSR/IICRC S760, Standard for Professional Restoration of Structures and Items Damaged by Wildfire Smoke.

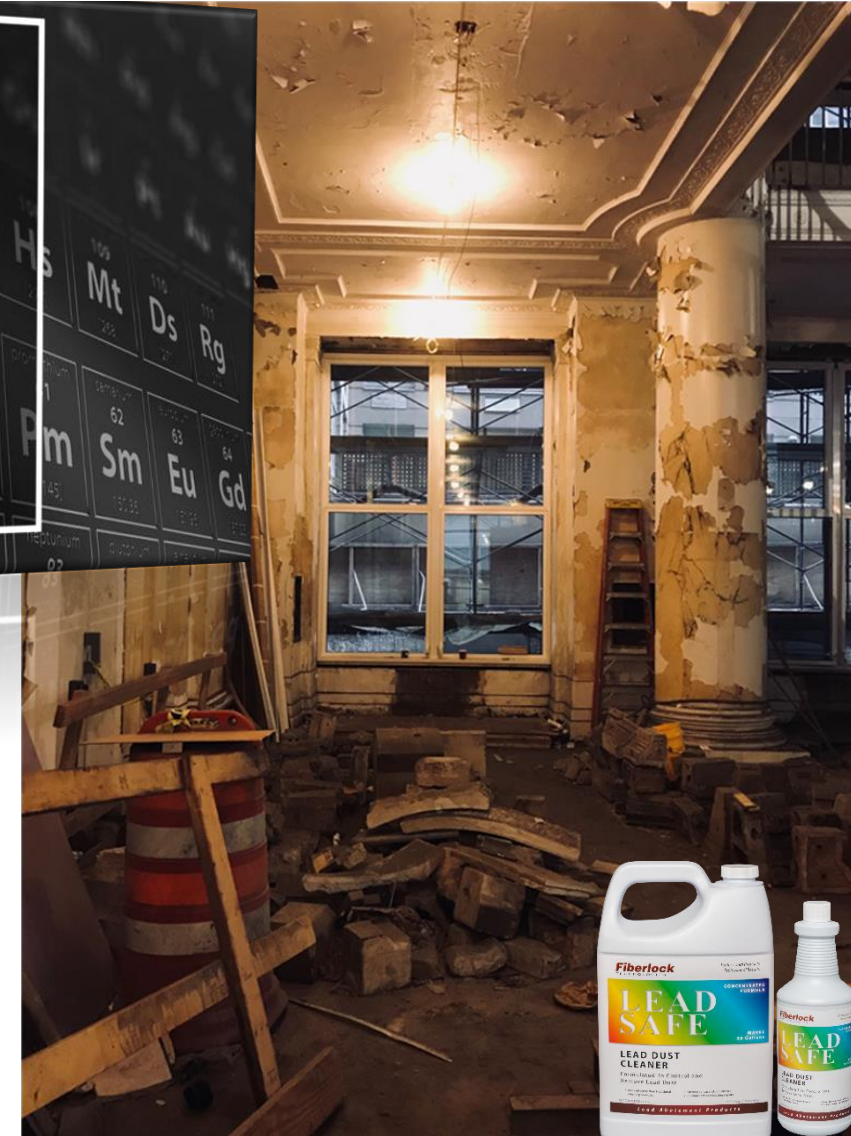
- will provide a specific set of practical principles, methods, and processes to evaluate and restore wildfire and smoke damaged porous and non-porous structural and personal items. ]
- This standard will also establish methods and processes to document, evaluate, clean and restore and verify the cleanliness of structures and items damaged from the smoke of wildfires..
- *The application deadline for the S760 is January 31, 2020.*

*this final rule revises the DLHS from 40  $\mu\text{g}/\text{ft}^2$  and 250  $\mu\text{g}/\text{ft}^2$  to 10  $\mu\text{g}/\text{ft}^2$  and 100  $\mu\text{g}/\text{ft}^2$  on floors and window sills, respectively*



As part of reducing childhood lead exposure, the EPA revised the Dust-Lead Hazard Standard (DLHS).

In the final rule published on July 9, EPA lowered the DLHS for floors from 40 micrograms per square foot ( $\mu\text{g}/\text{ft}^2$ ) to 10  $\mu\text{g}/\text{ft}^2$ . In addition, the DLHS for window sills was lowered from 250  $\mu\text{g}/\text{ft}^2$  to 100  $\mu\text{g}/\text{ft}^2$ . No change was made to the dust-lead clearance level or the definition of lead-based paint, which is defined as paint or other surface coating that contains lead in excess of 1.0 milligram per square centimeter ( $\text{mg}/\text{cm}^2$ ) or 0.5% by weight. The revised DLHS applies to pre-1978 homes, certain schools, child-occupied facilities and hospitals. It will become effective on January 6, 2020.



# CA LEAD LAWSUIT

The 19-year marathon California lawsuit against manufacturers of lead-based paint may have finally reached a resolution.

- Five years ago, three paint companies were ordered to pay 10 California cities \$1.1 Billion, which must be used for abatement of lead hazards
- July 17, 2019 – Settlement: \$305 Million
- Payable over 6 years with \$75M by EOY 2019
- Most of the money into remediation programs in 10 jurisdictions including counties (LA, SF, Alameda, Santa Clara), and cities (Oakland, San Diego)
- Previous restrictions on how funds could be used lifted
- Estimated inspection cost per home \$140
- Estimated remediation cost \$1,500 per unit
- Only way that happens: extensive use of encapsulation
- Full disclosure: Now a member of ASTM Lead Committee and responsible for ASTM E 1795 , E 1796 and E1797 standards



# MILITARY HOUSING

An update on the too often squalid conditions of privatized military family housing. Be informed on this enormous segment in need of solutions to environmental problems. After HUD, the DOD is the nation's 2<sup>nd</sup> largest housing manager



Lawmakers heard [testimony of military families](#) earlier this year about mold, lead-based paint, water leakage and damage, vermin and host of other problems with their military housing; their frustration in getting their privatized housing company to fix them; and the lack of assistance from the military in getting their problems fixed.

In a [survey](#) earlier this year conducted by the Military Family Advisory Network, more than half of the 14,558 privatized residents who responded reported having a negative experience with their housing.

# HOW WE GOT HERE

Privatization began around 1996, when Congress authorized the Defense Department to enter into long-term agreements with private companies to repair, renovate, construct and operate base housing.

At the time, two-thirds of military housing needed significant repair or replacement. The Pentagon estimated it would take about \$20 billion and 40 years. But politically, we wanted to cash out a peace dividend

Privatized housing seemed like the answer. Congress authorized the private sector to operate [82 housing projects](#). Government leased the land to developers for a 50-year term.

In exchange for building and operating the properties, the private companies were promised the residents' individual housing allowances.

It worked until it didn't. The math broke down when occupancy rates fell dramatically as military continues to get smaller. Then, to save money, the Feds reduced the housing allowances, forcing the corporations to eat the difference. GAO and others started sounding the alarm as much as a decade ago.



## INSPECTOR GENERAL OF THE ARMY REPORT ON RESIDENTIAL COMMUNITIES INITIATIVE

September 6, 2019 - What we found

- Confusion concerning roles and responsibilities
- Oversight, governance, and synchronization were insufficient
- RCI deal structures present unique challenges (favored corporate companies)
- Installation housing offices incapable of QA/QC
- From senior commanders to DPW to housing staff: inadequate training
- Residents were dissatisfied with RCI companies performance
- Historical homes present unique challenges
- Military families who spoke up experienced retribution, retaliation or reprisal

## **INSPECTOR GENERAL OF THE ARMY REPORT ON RESIDENTIAL COMMUNITIES INITIATIVE**

What we recommend (push to include as conditions of 2020 National Defense Authorization Act)

- RCI metrics to include life, health and safety
- Tenants Bill of Rights
- Systematic reporting and inspection
- Financial transparency and DOD renegotiation of baseline business and ground lease agreements, including validation of expenses
- Education and training of garrison command and staff
- Cost/benefit analysis of historic homes agreements
- Development of quarterly customer satisfaction metrics

## **New association of privatized housing companies pushing back on some reforms**

The Military Housing Association, formed this year, includes the larger privatized housing companies –

1. Balfour Beatty Communities
2. Corvias
3. Hunt Military Communities
4. Lendlease Communities
5. Lincoln Military Housing



Questions? Discussion?



**Cole Stanton**



**Director Education & AED Specification**

 Phone: 978 623 9987 x 2241

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 Web: *coming soon!*



# MAKING WISE CHOICES IN WORDS DESCRIBING YOUR SERVICES

- **ABATEMENT**
  - REMOVED OR MANAGED IN PLACE
  - PERMANENTLY SAFE (LEGAL TERM)
- **REMEDIATION**
  - REMOVAL OF CONTAMINANTS AND HAZARDS
  - SIMILAR TO ABATEMENT; LESS LEGAL STANDING
- **RESTORATION**
  - RETURN TO PRE-LOSS APPEARANCE AND FUNCTIONALITY
- **MITIGATION, &/or,**
- **INTERIM CONTROLS**
  - HAZARD REDUCTION
  - CAN BE INCOMPLETE, TEMPORARY
  - STABILIZATION OR EMERGENCY RESPONSE



**ALARA**  
**(As Low as Reasonably  
Achievable)**

# HUD, Ben Carson & LBP

- “Deteriorating paint in older homes is the primary source of lead exposure for children, who ingest paint chips and inhale lead-contaminated dust. Between 1998 and 2000, a quarter of the nation’s housing—24 million homes—was estimated to have significant lead-based paint hazards,” read one portion of Carson’s prepared testimony.
- “Substandard housing conditions such as pest infestation, the presence of lead paint, faulty plumbing, and overcrowding, which disproportionately affect low-income and minority families, lead to health problems such as asthma, lead poisoning, heart disease, and neurological disorders.”

