

**DAVID S. BENTZ**  
STATE REPRESENTATIVE  
18<sup>th</sup> District



**HOUSE OF REPRESENTATIVES**  
**STATE OF DELAWARE**  
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DOVER, DELAWARE 19901

**COMMITTEES**  
Health & Human Development, Chair  
Energy, Vice-Chair  
Appropriations  
Joint Finance  
Labor  
Natural Resources

**House Health and Human Development Committee Meeting Minutes**  
March 24, 2021

Chair Bentz called the virtual meeting to order at 11:00 a.m. He stated that the meeting was planned in accordance with HCR 1 and took the roll call of the committee's members. Members present included Vice Chair Minor-Brown and Reps. Chukwuocha, Johnson, Baumbach, Heffernan, Morrison, Kowalko, Lynn, Postles, Shupe, Smith, Briggs King, Hensley, and Collins. For a list of guests present please see the attendance list below.

**Chair Bentz introduced SB 69, AN ACT TO AMEND CHAPTER 268, TITLE 82 OF THE LAWS OF DELAWARE RELATING TO DEATH CERTIFICATES.**

Chair Bentz explained that this bill removes the sunset provision in HB 354 so that death certificates can continue to be electronically filed. There were no questions from the committee.

Chair Bentz opened the floor to public comment.

Scott Kinder of the Delaware Funeral Directors Association spoke in support of the bill.

Joshua Shoenberg also of the Delaware Funeral Directors Association spoke in support explaining the bill's importance in expediting the death certification process so families can obtain the records faster as well as reducing waste.

A motion was made by Rep. Baumbach and seconded by Rep. Kowalko to release SB 69 from committee, the motion carried. Yes = 14 (Chair Bentz, Vice Chair Minor-Brown, Reps. Chukwuocha, Johnson, Baumbach, Heffernan, Morrison, Kowalko, Postles Shupe, Smith, Briggs King, Hensley, Collins); No = 0; Absent = 1 (Rep. Lynn). The bill was released from committee with a F=6, M=7, U=0 vote.

**Chair Bentz introduced SB 55, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO SCHOOL ACCESS TO EPINEPHRINE AUTOINJECTORS.**

Vice Chair Minor-Brown explained that this bill would create emergency access to epinephrine by enables institutes of higher education to acquire and stock a supply of epinephrine autoinjectors if an employee or agent has completed a training program. This enables those who have complete the training to provide an autoinjector to an individual who they believe to be experiencing anaphylaxis for immediate self-administration, or to administer the EpiPen to an individual experiencing anaphylaxis. The individual must notify EMS before self-administration and report the administration to the prescribing health-care provider after.

Rep. Shupe thanked everyone who has pushed this important bill forward.

Chair Bentz opened the floor to public comment.

Robert Overmiller spoke in support of the bill.

A motion was made by Rep. Johnson and seconded by Rep. Baumbach to release SB 55 from committee, the motion carried. Yes = 14 (Chair Bentz, Vice Chair Minor-Brown, Reps. Chukwuocha, Johnson, Baumbach, Heffernan, Morrison, Kowalko, Lynn, Postles Shupe, Smith, Briggs King, Hensley, Collins); No = 0; Absent = 0. The bill was released from committee with a F=6, M=7, U=0 vote.

**Chair Bentz introduced HB 150, AN ACT TO AMEND TITLES 4, 11, 16, AND 30 OF THE DELAWARE CODE CREATING THE DELAWARE MARIJUANA CONTROL ACT.**

Rep. Osienski explained that this bill allows adults over the age of 21 to legally possess and consume under 1 ounce of marijuana for personal use and creates the legal framework to license and create a new industry that will create well-paying jobs for Delawareans while striking a blow against a criminal element which profits from the thriving illegal market in the state. The bill would establish a marijuana control enforcement fee assessed at point of sale set at 15 percent which is both comparable with tax rates in the region and will keep prices competitive with the existing legal market values. He explained that this bill allows for the issuance of up to 30 retail licenses, 30 manufacturing licenses, 60 cultivation licenses, and 5 testing licenses to be used within 16 months of the bill's effective date. It would also establish a competitive licensing process using a scoring system that rewards applicants for community benefits such as paying a living wage, offering employees health insurance and paid sick leave, hiring fulltime employees, and focusing on diversity of the workforce in hiring.

Rep. Osienski acknowledged that over the past two years he has been talking to communities who have been negatively impacted by the prohibition of marijuana. In an attempt to undo some harm done and ensure these same communities will benefit from the new legal market, the bill allows for the expungement of most prior marijuana offenses and creates a new social equity license pool. This pool is open to Delawareans who either live in a disproportionately affected area, have been convicted of a marijuana related offense, or are the child of someone convicted of a marijuana related offense. Half of the first round of retail licenses, 2 testing licenses, and 1/3 of the cultivation licenses will be awarded to the pool of social equity applicants. Rep. Osienski further explained that the bill contains several other provisions to give social equity applicants a leg up in competing with big multistate operators such as discounted fees, waivers, technical assistance, and loans. The bill also creates a special license pool for Delaware owned marijuana micro businesses in cultivation and manufacturing. He explained that these micro industries can be thought of as the craft growers of Delaware's marijuana industry. The microbusiness provisions ensures that local small businesses can grow and thrive in Delaware, and that the business is not dominated by the big corporate entities.

Rep. Osienski explained that enforcement would be handled by the Division of Alcohol and Tobacco Enforcement through a new Office of the Marijuana Control Commissioner, this will prevent duplication of services and minimize startup costs. HB 150 would not change existing state law regarding driving under the influence of an illicit recreational drug, it also would not allow individuals to grow their own plants. Public consumption of marijuana would still be illegal. Employer enforcement largely would not change as employers would be permitted to drug test employees for marijuana to ensure any zero tolerance policies are being followed as well as prohibit to consumption at work. No longer would a person in possession of marijuana be a person prohibited from purchasing and possessing a firearm.

Rep. Osienski stated his understanding that this is the first step in committee and that they are here today to listen to concerns. He explained that it still needs to be heard in the House Appropriations committee and it will not be heard on the floor until sometime after the Easter break.

Chair Bentz shared his appreciation for Rep. Osienski's hard work on this bill.

Rep. Morrison stated that in the 1930s the first Commissioner of the U.S. Treasury Department's Federal Bureau of Narcotics, Henry J. Anslinger, began a war on cannabis specifically to target Mexican Americans and Black Americans. Anslinger and his bureau especially targeted Black Americans as the Jazz age grew and more Black Americans moved north. Rep. Morrison explained that today marijuana prohibition continues to devastate communities of color and those of lower socioeconomic status. He stated that many Delawareans suffer from conditions that can be treated by cannabis, and anyone should have access to these treatments. He referenced myths and disinformation about marijuana legalization which he said are not borne out by scientific, empirical evidence. Rep. Morrison then urged the members of the committee to keep in mind that regardless of their personal beliefs, majority of Delawareans do support the bill across the political spectrum.

Rep. Johnson commended Rep. Osienski on his work on the bill and the modifications that have been made since earlier versions of the legislation based on feedback provided. She referenced Subchapter 3 which establishes the criteria for the social equity applicant and asked if only Delawareans were eligible. Rep. Osienski responded yes, that residents must have resided in Delaware for 5 of the last 10 years.

Rep. Johnson then asked who will collaborate with the Commissioner to ensure that the financial and technical assistance programs will work as intended, expressing her desire to get this bill right upon implementation. Rep. Osienski responded that the Commissioner is tasked with coordinating with the Division of Small Business, who does have a seat on the Oversight Committee, to oversee this. He recognized potential complications due to the Federal classification of cannabis but shared that other states have worked through this. During the promulgation of regulations, research will be done on how

other states have made this work to implement it accordingly. He stated that vague language in the bill on this may be due to the need to work this out. Rep. Johnson added that when the point is reached where the process is created, that in addition to including the Division of Small Business, stakeholders who would be a part of the process should also be included.

Rep. Briggs King asked if there is data or information about the potential to reduce the illegal marijuana market in Delaware. Rep. Osienski shared that it is shown that competition is the best mechanism to do this and it was a consideration in choosing how and where to put the tax, they wanted to ensure that the 15 percent tax was set so that they would be competitive and hurt the illegal market. It is believed that consumers are willing to pay a bit more if they can purchase marijuana legally from a licensed and regulated establishment. Additionally, the Commissioner and Oversight Committee are tasked with reviewing the legislation's impact on the illegal market, and they will be reporting back to the General Assembly on this and other items biannually.

Rep. Briggs King inquired about the phrasing of "disproportionately impacted area" as opposed to incorporated areas or municipalities. Rep. Osienski responded that they did not want to be too specific and have accordingly instructed the Commissioner to use all available state data to come up with those areas based on size parameters. Rep. Briggs Kings shared her concern that the bill mentioned disproportionately impacted areas and then later references locality without a local control mentioned for her county. She voiced concerns shared with her by the county that they do not have the same ability to monitor and make local decisions as cities have. Rep. Osienski explained that language was specifically put under the definitions to explain that it does only apply to incorporated municipalities or towns, and that they could pass ordinances to prohibit the establishment of these businesses. The county authority would be strictly over land use. If the county is considering an applicant, complaints can be submitted, and if 10 are received then the Commissioner would need to set up a review and a hearing.

Rep. Briggs King then asked what the money that is generated from all parts of the marijuana industry will be used for. Rep. Osienski responded that he has been in discussions with the Department of Finance on this, and they have not verified if the bank that the state of Delaware uses would allow this money to be collected, but other states have found ways to work around this, some by using a different form of a financial institution.

Rep. Briggs Kings appreciated this answer, highlighting her concern about how the funds collected would be secured and maintained if there are issues with them being deposited in financial institutions.

Rep. Briggs King shared her concern about adequate labeling and notices, highlighting her experience serving on committees relating to substance exposed infants and cancer. She would like labeling to adequately warn people, especially those who are pregnant about the potential harm and diseases associated with using marijuana. Additionally, ensuring that additives cannot be added to enhance the flavor or smell, as they are currently trying to prohibit this for cigarettes. Rep. Osienski responded that they share this concern and shared language (starting at line 559) that addressed her concerns.

Rep. Briggs King inquired about line 146 and the testing facility to determine potency and contaminants, asking what standards will be used and who will be developing them. Rep. Osienski explained that the Commissioner is tasked with promulgating regulations, and added that the Director of the Medical Marijuana Program will be on the Oversight Committee. He also acknowledged that the science is always evolving on this that there are some biotech companies doing research on cannabis. Rep. Briggs King asked what happens when testing shows a product is contaminated or has issues. Rep. Osienski explained that this was examined closely to avoid any product falling into the illegal market and that there is seed to sale tracking overseen by the Commissioner. If some plants do not pass the testing process for any reason such as pesticides or mold, those plants will be pulled and destroyed through the tracking system to avoid the opportunity to divert to the illegal market.

Rep. Briggs King referenced line 164 and asked about the language stating a retail marijuana store is an entity licensed to purchase and does not use the term person, while previous language has been specific to say individual. She wondered if wording should be consistent in this section to make clear that person and entity are the same. Rep. Osienski responded that they would look into this and would be happy to clarify, but shared their attorneys' understanding that a person in the Delaware Code can be defined to include a corporation or business entity.

Rep. Briggs King inquired about Subchapter 3 and how Rep. Osienski envisions the scoring process occurring. Rep. Osienski shared that his goal is to ensure that this bill creates jobs for Delawareans. To address this without having strict requirements they looked to the criteria scoring used by other states. There is an extensive list compiled for the Commissioner to use which includes business experience, hours, and employees. Applicants will answer all these criteria questions, weight has not been given to particular questions, that discretion is up to the Oversight Committee. Rep. Briggs King commented the criteria like training and experience would indicate looking for people not from Delaware which may defeat other goals of the bill. Rep. Osienski pointed out that a plan can be submitted showing a contract or partnership with a

company or individual with experience, the goal is to get as many Delawareans involved as possible and not have large companies come in and block Delaware entrepreneurs.

Vice Chair Minor-Brown asked about the social equity piece of the bill and who exactly is responsible for ensuring that the social equity aspect of the legislation is carried out. Rep. Osienski responded that it would be the Commissioner and the Oversight Committee, there has a broad base of membership with 15 members. Vice Chair Minor-Brown asked how diverse this committee will be. Rep. Osienski responded that there are outlined required appointments to the committee. Vice Chair Minor-Brown shared her hope that the committee is truly diverse, beyond just one minority present on the committee. Rep. Osienski highlighted that the social equity license recipients must fall into one of 3 criteria; residing within an impacted area, having a past marijuana conviction, or being a child of someone who has a past marijuana conviction. These criteria ensure that the committee is required to award the social equity licenses just to this pool.

Vice Chair Minor-Brown asked if Rep. Osienski would be open to also include the number of persons that receive technical assistance and the effectiveness of the financial and technical assistance offered in the Committee's report. Rep. Osienski thought this was a reasonable request and explained that the reports to the General Assembly include a requirement to track the social equity applicants in reference to the previous question. Vice Chair Minor-Brown suggested the report also include the economic output or number of jobs created due to the social equity licenses. Rep. Osienski responded that it may already be included.

Rep. Postles expressed concerns about the claim that legalization will effectively eliminate the illegal market in Delaware, he stated that the Colorado Drug Task Force report shows that the illegal market has grown dramatically in the last 4 years and that federal Drug Enforcement Administration reports from other states support the same conclusion. He stated his concern that if marijuana is legal, it will not be seen as too dangerous. He stated that research has shown the brains of young people continue to develop until the mid-twenties and there are studies showing some negative effects of marijuana including memory loss. Rep. Postles further emphasized the mental health effects like anxiety, depression, and suicide. He then shared the business community's concerns about this bill's effect on their employees, employee performance, and liability.

Rep. Osienski responded in states where cannabis is illegal, there are still cases of minors gaining access through the illegal market. He plans to stay focused on eliminating the black market. As it will be regulated and controlled just like alcohol, this is a concern since minors can sometimes access alcohol. Rep. Osienski shared that in communications with colleagues in Colorado they admit that they may not have gotten everything right from the start and they run two to three bills each session to address these concerns as they develop. In regard to the business community, no existing laws have been altered, Delaware remains an at will state where employers can have prohibition on marijuana. Rep. Osienski understands that in certain industries when heavy equipment is being operated the employers still can have a zero-tolerance drug policy and has the right to terminate or take other action if an employee tests positive for substances.

Rep. Collins asked for a description of the costs of operating a legal marijuana grower or seller in Delaware under this bill. Rep. Osienski responded that the retail license would have the least amount of capital while a cultivation would be the largest with a significant investment, outdoor cultivation would have less capital needs.

Rep. Collins asked what the tax rate would be. Rep. Osienski responded that it would be 15 percent at point of sale on the retail end. Rep. Collins asked if there are employees who would need to be compensated which Rep. Osienski confirmed. Rep. Osienski also agreed with Rep. Collins that there would be some regulation costs. Rep. Collins stated that the black market does not have any of these costs so people in Delaware will have an increased interest in purchasing marijuana, and if a person has one ounce of marijuana on them it is not a crime. He asked for an explanation on how this bill would not benefit the black market if they can produce the product for much cheaper than any commercial bill could under this bill. Rep. Osienski referenced the prohibition of alcohol as an example where the prohibition was a boon for the illegal enterprise and when it was repealed it came crashing down. He explained that while moonshine can be bought, it is not a thriving industry.

Rep. Collins pointed out that alcohol production requires large facilities and a lot of time while marijuana can be grown anywhere at any time and shared a story of a college friend growing marijuana and selling their plants for thousands of dollars. He then asked what will happen to a person in Delaware who for instance has a CDL and is employed by a trucking company if they start to use marijuana given that it is legal, then realize it is prohibited at their job when they take their first drug test. Rep. Osienski stated that those industries already have zero tolerance testing in place that employees are informed of when they are hired and that this bill does not invent a product that is not already present in society.

Rep. Collins then commented that he has not had the time to thoroughly investigate the bill and check sources. He then referenced a 2017 report from the National Academy of Science, Engineering, and Medicine which states that the

association between cannabis use and development of a psychotic disorder is supported by data synthesized in several good quality systematic reviews, the magnitude of this association is moderate to large and stated that there are many unanswered questions. Rep. Osienski then stated that this is only the first step for this bill, and that the public has been aware the bill was coming over the last month or so, in addition to Rep. Osienski doing interviews and attending advocacy group meetings. He believes it has been well known that this legislation is coming as the process was started by colleagues in 2017.

Rep. Shupe thanked Rep. Osienski for all his work on this bill, acknowledged the complexity of the topic, and asked for clarification for Delawareans that the State is not going to be in the business of growing or selling marijuana themselves. Rep. Osienski confirmed that the State is not directly involved in the industry.

Rep. Shupe then inquired about the scoring mechanism in the bill, asking specifically for explanation about section 4A regarding labor unions. Rep. Osienski explained that this sections outlines scoring material and directs the Commissioner to ask that question, it pertains only to open licenses for cultivation and manufacturing which is 24 percent of the total available 125 licenses.

Rep. Shupe asked if that language indicates that someone who uses a bonafide labor agreement under those terms would score higher in the scoring mechanism of the application. Rep. Osienski said that it would not because that decision is left up to the Commissioner. While the Commissioner is directed to ask the question, it is up to them how to score it and prioritize that information. Rep. Shupe expressed confusion about why the question was included as it seems to exclude many businesses in the private market who may not have a labor agreement. Rep. Osienski clarified there is no requirement that applicants must do this, the question is simply asking so that it can be included in considerations for community benefit.

Rep. Shupe asked why this would be considered a community benefit to which Rep. Osienski replied that research has shown bonafide labor agreement employees generally have good benefits and other measures also included in the scoring mechanisms. He reiterated that it is not a requirement.

Rep. Shupe stated that he is primarily concerned that a labor agreement shop would be given preference over a nonlabor agreement shop. Rep. Osienski stated that the question about labor agreements is only one of a long list of criteria, none of which have been designated to have a different weight or priority. He imagines different businesses will score differently and it will be up to the Commissioner what he deems an adequate and good applicant to issue a license. Furthermore, he explained that this criteria only kicks in when there are more applicants than licenses available.

Rep. Shupe shared that he thinks the state did well with the medical marijuana program, and that he does not have any overall moral objection to recreational marijuana, but discussed the fact that there is already one legal recreational drug, alcohol, and that there are major challenges being worked on with alcohol in regards to road and worker safety.

Rep. Shupe then expressed confusion about the fiscal note referencing the revenue of \$925,000, but said that there are recurring budget needs for SDI, DELJIS, and the Superior Court which are projected to remain funded by the General Fund. He also sought an explanation of the columns in the fiscal section of the bill regarding different funds. Rep. Osienski explained that the Marijuana Regulation Fund is funded through the 15 percent tax, all costs would be paid off the top first. Any generated tax revenue from this program would first go to pay the costs of any agencies that run the program. Rep. Shupe expressed the desire to see this drawn out with profits and losses as it looks like there are significant deficits in early years, and it is unclear when it would start funding itself. Rep. Osienski shared that they would have this information when the bill takes the next step into the Appropriations Committee.

Rep. Morrison stated he found it interesting that some colleagues express public health concerns when they were adamantly against raising the age for tobacco use to 21 years old. He then refuted others statement as empirical studies have shown that in states where cannabis has been legalized there has been little to no uptick in the number of users consuming cannabis.

Rep. Smith had a question about lines 507 – 536 regarding the decision-making process, he would like to see more of the economic development and impact data included when making decisions about licenses. He also echoed Rep. Shupe's concerns about the PLA requirement because of the word "must." He would hate to see the bill not hold up constitutionally because of that one section. In terms of licenses, any number chosen is going to be arbitrary when looking to eliminate the black market. If licensure was not limited, the medicinal and recreational market would benefit, and it would be the best way to eliminate the black market. Rep. Osienski pointed out that the word "must" is for the Commissioner, they must include that as one of the many criteria, not that the applicant must have a labor agreement.

Chair Bentz opened the floor to public comment.

William McVay of the Libertarian Party of Delaware State Board spoke in support. He refuted the alleged association

between psychosis and cannabis use raised by committee members stating that while there may be an association, his claim was not causal and it is likely that those with mental illness are more likely to use cannabis than the general population. Additionally, spillage which refers to the product being damaged or stolen in the legal market, happens in the illegal market as well, and is priced into the costs. There are also scarcity issues in illegal markets that the legal market would not face as there would be contracts that can be held up in court.

Alanna Mozeik, the policy lead for the Division of Public Health (DPH), spoke to areas of concern about the bill. First, according to an evidence review conducted by the National Academies of Science, Engineering, and Medicine there is moderate evidence of a statistical association between cannabis use and the development of substance dependence and/or substance use disorder for substances including alcohol, tobacco, and illicit drugs. Ms. Mozeik explained that it would be helpful to have language in the bill that supports Delaware's behavioral health system as a possible use of the tax revenue collected given the potential for behavioral health effects because of legalization. Additionally, the bill establishes a low licensure fee for recreational marijuana establishments as compared with that of compassion centers in Delaware's medical marijuana program. DPH recommends raising the license fee from \$10,000 to \$20,000 or \$30,000 every two years to be more closely aligned with the compassion center requirements of \$40,000 every two years. Otherwise, DPH is concerned the cost difference may lead to a shift from producing medical marijuana to recreational. DPH would like to ensure medical marijuana clients have access to medicinal marijuana regardless of the availability recreationally. DPH recommends removing references to outdoor cultivation as it puts plants at risk of contamination from insects, wildlife, pesticides, cross pollination, and other contaminants. Delaware's compassion centers currently grow their marijuana exclusively indoors allowing centers to closely control the growing environment including temperature and light. It is also a greater security risk to grow outdoors as evidenced by the Delaware Department of Agriculture's experience with hemp cultivation.

Nikko Brady spoke on behalf of the Department of Agriculture on their desire to see the legislation more clearly contemplate how specific items established under existing rules and regulations will be addressed, particularly technical concerns. The department currently regulates the production of hemp, the bill's definition would imply that hemp is marijuana, and that State has authority over hemp. They urge the definition more clearly distinguish hemp from marijuana where the Department of Agriculture currently regulates hemp using Title 3, Chapter 28 where industrial hemp is clearly defined. Furthermore, the department urges that marijuana should be grown at indoor cultivation facilities with adequate security measures in place. In the past, at outdoor growing sites licensed hemp growers have experienced violent threats and theft of crops when they were mistaken for marijuana. Relating to existing rules and regulations they urge that current items related to nursery stock, seed, pesticide use, and weights and measures in the State which have both state and federal rules and regulations be better contemplated in the bill.

Dr. Elissa Miller of Neumors explained concerns regarding safety for children and youth. She stated they would like to have an increase the safety provisions and ensure that packaging can be resealed, there are clear warnings to pregnant women and parents, that the packages with multiple servings be labeled as such. They finally noted that despite the best intentions and statutory provisions it is likely that youth consumption of marijuana will increase following legalization as it has in other states.

Ann Bookout of the Delaware United Policy Committee referenced the other states which have legalized marijuana pointing out it is not only safe but very profitable for states to do so. She stated that it is also popular with citizens of Delaware, referencing a University of Delaware poll from last year showing 56 percent of citizens in favor and 70 percent of those under the age of 30 in full support of the legislation. She urged the committee to vote to release the bill.

Dr. David Nathan, the founder, and Board President of Doctors for Cannabis Regulation (DFCR) in support of the bill. Dr. Nathan stated his belief based on evidence that cannabis can cause harm for at risk populations however, the negative health claims cited by some speakers today were factually incorrect and directly contradicted by evidence, coming directly from a well-funded opposition that cherry picks and distorts evidence to fit their ideology. Dr. Nathan explained that despite the opposition's hyperbole it is important to recognize the cannabis can do harm to pregnant and breast-feeding women and people living with psychiatric disorders, and all legalized cannabis should carry warnings stating so. He stated that in the past few years as some states have begun legalizing marijuana access points have reduced and the rate of youth cannabis access is trending downward, currently below 80% for the first time in decades.

Javonne Rich, a policy advocate for the American Civil Liberties Union (ACLU) of Delaware, spoke in support of the bill. She stated that a significant number of arrests in Delaware are for possession only with no link to violence. According to a 2020 ACLU research report, Black Delawareans are over 4 times more likely to be arrested than white people for possession, despite the fact that Black and white people use marijuana at a similar rate. Delaware ranks 15<sup>th</sup> in the nation for racial disparity in arrest for marijuana possession. Ms. Rich emphasized that marijuana legalization is a racial justice issue stating that prohibition has been used as a means of surveillance and social control in Black and brown communities, acknowledging that legalization alone cannot solve racial profiling and disparities. Their recommendations to strengthen the

bill would be to intentionally and continuously collect data to study the impact of marijuana legalization and arrest on Black and brown communities and work towards solutions to eliminate disparities. While one of the clauses did mention the disparities of arrest of Black Delawareans, Black was only mentioned one time in the bill with no other mention of how the bill would repair disparities. Ms. Rich further stated that the law should not replace prohibition with a system of fines, fees, and civil citations and should expand expungement opportunities for those with low-level trafficking convictions and those with eligible expungement convictions regardless of if they have other convictions or violent felonies on their record.

Stephen Lex is the Vice President of Pettinaro Construction and expressed concerns on behalf of the Pettinaros starting with page 19 and the language that he states creates a mandate for a bonafide labor agreement, and furthermore where it mandates that PLAs be in place to construct new and/or renovate existing facilities. He stated that their legal counsel has advised that this bill as written is unconstitutional and limits their ability to acquire tenants for their properties as they construct new buildings and renovate in-house with their construction company and all the funding going into this is private money. They requested that the language regarding labor peace agreements and project labor agreements be stricken from the language of the bill.

Zoe Patchell of the Delaware Cannabis Advocacy Network spoke in support of the bill. Ms. Patchell stated that Delaware is not in a bubble and it is impractical, illogical, and fiscally irresponsible to think that cannabis prohibition will ever eliminate its use in the State. Therefore, the only responsible decision is to legalize cannabis for adults 21 and pass legislation that includes robust measures to prevent underage sales and rigorous consumer safety protections to ensure that products sold in Delaware are safe, none of which can be done in an illicit market. She furthered that opposition arguments are often overstated, misleading, or hinged on the premise that people are not currently consuming cannabis and legalization is creating something new. According to the Substance Abuse and Mental Health Service Administration, Delaware has a rather large pre-existing consumer base with 18.5 percent of adults admitting to cannabis use. The New York State Department of Health released a report that concluded the positive effects of a regulated market in New York State outweigh the potential negative impacts. Areas that may be cause for concern can be mitigated with regulation and proper use of public education tailored to address key populations. Ms. Patchell emphasized the fact that the idea that there would be an increased illicit market is absurd and illogical, furthering that cannabis legalization has taken billions of dollars of revenue out of the criminal market.

Jamie Johnstone from the Department of Finance raised several administrative and technical issues related to tax collection and administration.

John Sybert of the Vice President of the Delaware Cannabis Advocacy Network spoke in support of the bill stating that legalizing cannabis has reached the mainstream and is no longer considered controversial evidenced by New Jersey's new industry and Virginia being close to repealing its prohibition laws. This bill would position Delaware to be competitive in the mid-Atlantic region by being at the genesis. As an already existing market, millions of dollars would shift from the illicit market to a well-crafted nation leading industry and create thousands of industry jobs in secondary industries such as electrical, HVAC, accounting, legal, manufacturing, security, tech, agricultural, real estate, and tourism. Mr. Sybert additionally stated that across Sussex county people are facing a decision about entering the family farming business, and with the cannabis industry jobs can be created for those farms and ensure farmland stays generational in the rural areas of the state. He also believes this legislation will send a message to the youth that there will be a cannabis industry to inherit and create hope in a post pandemic economy. He stated that prohibition has been a failed and costly policy that 14 states and Washington D.C. have ended, and that a majority of Delawareans support ending, asking that the real question is who you want controlling the marijuana industry, illicit drug dealers or the citizens of Delaware.

Iskeisha Stuckey of the Delaware United Policy Committee spoke in support of the bill stating that decriminalization has failed to achieve its goals. What started as a movement to stop locking people up on cannabis charges has done the opposite, every year since decriminalization the number of charges has gone up, families are still being torn apart, and they cycle of criminalization is moving forward. Ms. Stuckey stated that HB 150 will bring an end to the war on drugs in Delaware and start to heal some of the decade long scars that cannabis prohibition has left on Delawareans. By focusing the economic opportunity on the communities that have been most impacted, HB 150 will help to reverse the tide of racism that has plagued our justice system regarding cannabis.

Mark Jacobs spoke in support explaining that he is a cannabis consumer who would pay more for a legal, regulated product. He asked what purpose is served by the continuation of cannabis prohibition as the policies have achieved none of its goals with neither consumption nor supply lessening. He urged the committee to listen to the will of the people and vote the bill out of committee so that Delaware can safely move forward and benefit from the large existing market and end injustice. Lisa Healy shared that she is a cannabis medical card holder and spoke in support of the bill. She explained that she was previously opposed to marijuana but had to do research when it was recommended to her medically. She would like marijuana to be legalized recreationally so there is a more diverse product available and emphasized that she disagrees with

it being classified as a class 1 drug as it is safer than other drugs and she does not have any side effects personally. She countered Rep. Collin's earlier statement saying that she knows people who currently used marijuana illegally that would be willing to pay more for a legal product.

Sharice Ward of Columbia Care Delaware shared that she has first-hand experience seeing how medical marijuana use can improve lives, particularly through the adopt a family program. She feared that this bill will undercut the medical marijuana program her patients rely on for their health and wellness needs. She asked how the state will guarantee medicinal marijuana for our cancer and pediatric patients once the recreational market is established and what assurance the legislation has in place to make adult use regulatory operators commit to the same oversight and control measures that the medical marijuana operators have had to commit to. Lastly, she inquired how will the state guarantee the speed to market necessary to facilitate a recreational program that meets its revenue goals and combats the illicit market.

Anne Farley voiced concerns on behalf of Delmarva Power and Light with the employer accommodations. They expressed a desire to respect the privacy of employees' personal life, but due to concern that activities off the job may impact on the job safety require drug and alcohol testing. They requested that any legislation permitting recreational use allow employers to make the best decision when it comes to their employees and have submitted written public comment requesting a friendly amendment explicitly allowing employers to have a zero-tolerance policy.

David White from Fresh Delaware, a Newark based registered compassion center expressed concern, first that the bill would harm the economic wellbeing of those who have chosen to make a material stake in Delaware, referencing a multi-million-dollar expansion his company has undertaken of their New Castle cultivation facility and expanding product offerings by launching an extract cultivation facility and lab. Increasing the cultivation sites at this time, would render their long-term planning and result in an un-recoupable loss and cause them to lay off their unionized workers. Mr. White stated that if this bill is released from committee, they will issue a reduction of force notice this week. Additionally, he said that this bill will exacerbate an already existing oversupply issue.

Joseph Jurkofsky explained that he is a combat veteran who has suffered from Post-Traumatic Stress Disorder (PTSD) and through medical marijuana has been able to get his life back and get off the opioid-benzo cocktail. He explained that many veterans were not well served through the medical marijuana program because of fear of being on a government list that could put VA benefits at risk. He would like the legislation to address some critical medical research issues or even partner with the VA.

Jeffery Horvath of the Delaware Police Chief's Council spoke about the Council's public safety concerns and urged the committee to vote no.

Matthew Burday of the Medical Society of Delaware explained that marijuana is the most commonly used illegal drug in the U.S. and it is growing. He shared while many patients claim to have beneficial effects from marijuana use there is much unknown. He said that 1 in 10 adults over the age of 18 years old reported using marijuana once a month, it is on the rise compared to tobacco smoking, and recent data suggests that 30 percent of adults who use marijuana may have some degree of marijuana use disorder which is described as problem use that may lead to dependence. Those who begin using marijuana before the age of 18 are 4 to 7 times more likely to develop marijuana use disorder than adults. Mr. Burday stated that studies show that 1 in 10 individuals who use marijuana will become addicted and that when starting before the age of 18 this rises to 1 in 6 individuals. Marijuana use is going up in all areas while the perception the harmfulness of marijuana is declining.

Ken Grant from AAA Mid-Atlantic strongly opposes the legalization of recreational cannabis due to the inherent traffic safety risk and the difficulty in identifying impairment at the roadside by law enforcement.

Nandi Randolph shared that she holds degrees in biological science and education and referenced the recent committee passage of HB 115 which was related to juvenile prosecution and pointed to the extensive scientific research cited that finds the development of adolescent brains is incomplete until they reach their mid-twenties. Ms. Randolph explained that while the bill treats marijuana like alcohol with the legal age being 21, the body does not filter or process marijuana the same as alcohol and it should not be legislated the same. While alcohol is absorbed through the liver, marijuana is extremely fat soluble, and the largest fatty organ of the body is the brain, and the direct effects of marijuana will be to the brain. Ms. Randolph urged the committee to consider the point of agreement established with HB 115 with the lack of brain development until the mid-twenties and stop HB 150 from legalizing marijuana at an age when the brain is still subject to damage from marijuana usage by voting no on this bill.

Laura Sharer, the Executive Director of Delaware Normal, spoke in strong support of the bill stating that adult cannabis legalization is a matter of justice and that prohibition is a failed, costly policy that diverts funding and law enforcement

resources away from serious crime coming at an unnecessary monetary cost and unjustifiable human cost. Ms. Sharer explained that prohibition of cannabis costs taxpayer's money, encroaches on civil liberties, engenders disrespect for the law, and disproportionately harms communities of color.

Lizzie Golob of Delaware NORML shared her strong support of the bill, stating that it is a life changing plant that does not kill people. She cited a University of Delaware poll showing that 61 percent of Delawareans are for legalization of cannabis and said that this bill will also increase access for medical patients as there are currently only 3 companies able to service over 10,000 patients, explaining that at the start of the pandemic all 3 companies had a decrease in supply causing many patients to go without their products.

Justin Curran shared that he has family in Seaford, Delaware and would plan to apply for a license if this bill passes. Mr. Curran explained that he has been working in the California's medical marijuana business for over 10 years and has also lived in Arizona, Oklahoma, Colorado, and Delaware which have some form of marijuana legalized. He stated that things are not going well in California due to overregulation which he fears will happen in Delaware, saying that in order to eliminate the black market the licenses should be opened up so that more affected people can benefit from the business.

John Yeomans of the Division Alcohol and Tobacco Enforcement stated that the Division is specified in the bill as the regulatory agency and that based on their mission to protect public safety, they would focus on preventing sales to minors; drugged driving; protecting users through product safety, labeling, and packaging; developing public health education to promote responsible cannabis use; and stopping criminal enterprises from functioning within legal frameworks. He further stated that they would adopt best practices learned from counter parts around the country. Through research and discussion, they have learned is that the regulation of marijuana requires three times the resources as alcohol. As such, to move forward with this they would be seeking additional staff, equipment, training, and office space to be successful in regulating a fair and equitable marketplace.

Wayne Smith spoke on behalf of the Delaware Healthcare and echoed health concerns raised earlier, particularly Ms. Randolph's on the effects on the brain and a lack of research, and Nemour's concerns about an increase in youth access. They are also concerned about some of the nonspecific of language regarding having zero tolerance policies at work as in their industry it is crucial to patient safety that judgement is not impaired.

Charles Stirk Jr. supports the legalization of marijuana. He referenced the New Castle County Police force which has seen a decrease in marijuana citations by half each year since 2018 and that the Attorney General's office chose not to prosecute majority of those cases, pointing out that the world did not end. He also explained that in New Castle County there were only 2 cases of Driving Under the Influence (DUI) in 2019 and 3 in 2020, so it is not a rampant problem.

Jeffrey Rose spoke in support of the bill on behalf of By Any Means Medical, a company that works with cannabis, THC, and hemp. He explained that he has seen marijuana help people a lot medically and improve the quality of life for elderly individuals and those on medications. He also stated that in travels across the West he has seen families building legacies starting with planting a seed. He addressed Rep. Collins and stated that he thinks someone in his family has been touched by heroine or cocaine addiction and its ramifications, which he says you do not see in cannabis. He further stated that he hopes there is full transparency with the cannabis committee and licensing process.

James Dechene spoke on behalf of the Delaware State Chamber of Commerce. He focused on lines 205 – 218 of the legislation and stated that they hope for further clarification on employer's ability to implement a zero-tolerance policy. They interpret the legislation as currently written to allow for zero tolerance policies while the employee is at work, but not when they are not at work. There are some companies that currently have a complete zero tolerance policy regardless of if the employee is at work and they would like the same ability with marijuana. Mr. Dechene shared additional concerns about the disciplinary procedures as the legislation currently requires an employer to have a baseline of behavior for every employee to be able to tell if there is an impairment, even with this it is difficult to tell if someone is sleepy or under the influence of marijuana or anything else. If an employer disciplines an employee based on this and their assumption is proven wrong, there is the possibility of the employee bringing suit against the company when the employer is doing the best they can to regulate the use of marijuana in the workplace. Mr. Dechene said he looks forward to working with the sponsor and hopes to iron out any ambiguity in the employment section.

Jennifer Stark, a co-owner of The Farm, stated that this bill is adding 30 retail, 30 manufacturing, and 60 cultivation licenses and is concerned about the ability of medical marijuana patients, particularly veterans to afford their products. She fears HB 150 will crush Delaware's medical marijuana program as occurred in California after they legalized it recreationally. She would like Delaware to follow the lead of states like New Jersey and Massachusetts to embrace the marijuana medicinal program and award licenses that build on the medical program.

James Nolan spoke as a member of the Law Enforcement Action Partnership in support of the bill. He shared his current role as a department chair and professor of anthropology at sociology at West Virginia University and his past service as a Lieutenant with the Wilmington Police Department, stating his support for regulating marijuana from a public health perspective and removing it from the purview of the criminal justice system. He explained that he has struggled with the idea of legalizing marijuana as he does not want to send a message that it is not harmful; however, his experience as a Wilmington Police Officer and doing research as a sociologist has taught him that marijuana prohibition causes more harm than the use of the drug, and the enforcement of prohibition sows deep distrust in the police and criminal justice system.

Jacqueline Seifred shared the harm the use of opioids has had in her family. She stated that her son's saving grace was his ability to use the harmless plant marijuana. She explained that she does not think it should be classified as a class 1 drug when it is not a drug nor deadly as no one has ever died from it. She replied to the concerns of business owners that their employees will be working while using marijuana which she says they already do, also stating that the danger to road safety is no different than alcohol. Ms. Seifred stated that she has been a user since she was a teenager and is a law-abiding citizen who always remembers the night before and urged Delaware to join other states in reaping the economic benefit from legalization.

Sam Chick of Delcanna explained the need to improve HB 150 as it is not justice or equity if marijuana cannot be grown by everyday Delawareans under penalty of law. He would like there to be no limit to the number of licenses, stating that a limited amount creates a cartel which already exists in the medical marijuana market where limited options causes low availability and high prices. He pointed out an earlier speaker from Fresh Delaware, which he stated is a large multi-state cannabis company looking to keep their cartel in place and limit local competition, while it is patients and consumers who are hurt the most from limited licenses causing high prices and poor selection as they pay 2 to 4 times more than in jurisdictions with more economic freedom. He stated that 99 percent of the people interested in participating are going to be kept out of the market including majority of those harmed by prohibition as there are limited social equity licenses. If the state would like to be truly equitable it would not limit licenses and lower the license fee to be more in line with alcohol licenses. He then pointed out that the license process currently leaves out the many businesses that are currently paying adult substance taxes and adhering to age limitations in existing regulations such as liquor stores. Mr. Chick explained that in states where recreational marijuana is legalized, liquor sales fall so it is only fair that these businesses also operate in this space.

Steve Linton shared that he is a Delawarean who is a recovering heroine addict. After an overdose five years ago he lost his leg and did not want to take pain medication for fear of relapsing, and medical marijuana was very helpful in stopping his phantom pains. However, in time he could no longer afford it at the dispensaries. Thankfully, he was adopted by Columbia care who has been paying for his medication. He thought it would be very helpful if this bill could bring costs down so that everyone that needs it can have access.

Alyssa Bradley of the Delaware Poor People's Campaign stated that HB 150 is a great step to reduce the amount of damage dealt to Delawareans under the poverty line as well as Black, Hispanic, and other minority people. They understand the trepidation due to the long-standing demonization of marijuana. However, it is past time for Delaware to address the issue and stop needless arrests and citations. They do believe this bill overregulates the sale of marijuana, but do not want the perfect to be the enemy of the good and urge the committee to vote the bill out of committee. They clarified that they would like to see more work done on the bill, but believe it needs to move forward.

Olivia Naugle is a legislative analyst at the Marijuana Policy Project and spoke in strong support of the bill. She highlighted the 15 states that have already legalized marijuana including red states and Delaware's neighbor New Jersey, as well as the strong support for legalization and regulation among Delawareans. She emphasized the fact that the sooner it is legalized, the sooner the State can take steps to promote public health and safety as they will be regulating products, not the illicit market. Also, this will free up law enforcement resources for more serious crime and create a new revenue stream for the state. Ms. Naugle also highlighted the racial disparity in prohibition enforcement despite decriminalization, explaining the increased difficulty in finding jobs, housing, and education after a conviction.

Jon Offredo, Legislative and Communications Director at the Office of Defense Service, spoke in strong support explaining how prohibition is a failed policy disproportionately impacting communities of color. He stated that the law on the books today does not reflect reality as people currently use marijuana and will continue to do so regardless of the passage of this bill. Passing HB 150 will ease the burden on the justice system including their attorneys and shift the focus to serious matters of public safety.

Karen O'Keefe of Marijuana Policy Project strongly supported this bill. She addressed the concern that teen marijuana use is up in Colorado which she stated is not true, in fact youth rates are down and the large-scale Health Kids Colorado survey shows high schoolers recent cannabis use decreased from 22 percent in 2011 pre-legalization to 20.6 percent in 2019.

Similarly, the National Survey on Drug Use and Health reports that marijuana use is down to 7.02 percent in 2019 from 10.74 percent immediately prior to legalization. Meanwhile, Colorado's high school graduation rate are up from 72 percent in 2010 to 82.1 percent in 2018. She also refuted the claim that the illegal market in Delaware will continue to thrive post-legalization as other states have seen their illegal market intrastate disappear within a few years. She explained that the current legal market in Colorado fulfills their demand, however prohibition and demand in other states that drives illegal markets. Ms. O'Keefe then addressed traffic safety by citing a study from the American Journal of Public Health found, "No significant association between recreational marijuana legalization in Washington and Colorado and subsequent motor vehicle crashes and fatalities in the first three years after recreational marijuana legalization." She stated that only legalization allows for regulatory control.

Andrea Brownclarke stated that HB 150 will address the social and economic injustices that allow those who have been historically marginalized to monetize through entrepreneurialism and business owners and reinvest in their communities. Ms. Brownclarke shared her personal struggle with pain management because of a car accident and the opioids she was prescribed not helping.

Arley Cooper shared that he is a retired Delaware State Trooper and explained that in the many car accidents he has investigated many were due to driving under the influence of alcohol, none were due to marijuana use. He explained the time-consuming nature of enforcing marijuana prohibition for law enforcement officers, and that marijuana can be very beneficial for health. He urged the committee to vote yes.

Dr. Edward Miller is the Chief Medical Officer for Compassion Care Research Institute of Fresh Delaware of Newark. He is concerned that by not automatically allowing medical centers to participate in adult use sales they will not be able to survive as the market is flooded with new businesses. Dr. Miller referenced Oregon's diminished medical market and said that medical patients will be subjected to the adult use market where products with high THC will be pushed which may be detrimental to their health especially if their conditions require a high CBD strain.

Jene Duffy of the American Cannabis Nurses Association and the Cannabis Nurses of Color spoke in support in the bill as it increases access and lowers barriers for patients who cannot afford the expensive registration requirements and annual costs. With 50 cultivators there would be an increase in strain availability and decreased prices. She stated that HB 150 provides a platform for access with significant consumer safety provisions including rigorous testing and labeling requirements to ensure a safe product.

Lynne Kielhorn spoke in support, explaining that removing cannabis from the criminal code will significantly reduce law enforcement interactions. According to the Delaware Statistical Analysis Center there are about 6,000 possession only offenses in Delaware annually which make up 52 percent of all drug offenses. Cannabis is the number one tool law enforcement uses to establish probable cause and circumvent fourth amendment constitutional rights. Ms. Keilhorn stated that this bill will literally protect thousands of lives annually.

Aaron Epstein of Cantech Delaware LLC stated his concerned that medical marijuana providers are not automatically grandfathered into adult recreational licenses, and fears this will put them out of business. He points out that other states have started recreational licenses with medical providers and is also concerned that so many cultivation licenses are dangerous. Without reasonable caps on supply and cultivation, in 2017 and 2018 Oregon authorities estimated that demand was about 50 percent of the supply leaving Oregon with about 1.3 million pounds of cannabis. While supportive of legalization, Mr. Epstein asked that medical marijuana businesses and social equity businesses not be decimated in the process.

Dustin McDonald of Americans for Safe Access raised concerns about gaps in the medical marijuana program ranging from lack of patient rights and civil protections to product safety and access. He stated that he would like to see expanded employee protection from discrimination for the type of medicine used, and issues addressed with lab safety and product labeling. Additionally, they want to improve affordability and see an increase in the list of qualifying medical conditions. Mr. McDonald stated that the integrity of the medical system and access of medical marijuana has suffered in states that have legalized as lawmakers have pivoted to address issues arising from adult legal use.

Rep. Shupe stated that there are too many outstanding issues in the bill that need to be worked through.

A motion was made by Rep. Baumbach and seconded by Vice-Chair Minor-Brown to release HB 150 from committee, the motion carried. Yes = 10 (Chair Bentz, Vice Chair Minor-Brown, Reps. Chukwuocha, Johnson, Baumbach, Heffernan, Morrison, Kowalko, Lynn, Smith); No = 5 (Postles, Shupe, Briggs King, Hensley, Collins); Absent = 0. The bill was released from committee with a F=5, M=3, U=0 vote.

Chair Bentz adjourned the meeting at 2:24 p.m.

Respectfully submitted by:  
Chelsea Chatterton

Speaker List:

- Representative Osienski
- Scott Kinder (Delaware Funeral Directors Association)
- Joshua Shoenberg (Delaware Funeral Directors Association)
- Robert Overmiller
- William McVay (Libertarian Party of Delaware)
- Alanna Mozeik (Division of Public Health)
- Nikko Brady (Department of Agriculture)
- Dr. Elissa Miller (Neumors A.I. Dupont Hospital)
- Ann Bookout (Delaware United Policy Committee)
- Dr. David Nathan (Doctors for Cannabis Regulation)
- Javonne Rich (American Civil Liberties Union of Delaware)
- Stephen Lex (Pettinaro Construction)
- Zoe Patchell (Delaware Cannabis Advocacy Network)
- Jamie Johnstone (Department of Finance)
- John Sybert (Delaware Cannabis Advocacy Network)
- Iskeisha Stuckey (Delaware United Policy Committee)
- Mark Jacobs
- Lisa Healy
- Sharice Ward (Columbia Care Delaware)
- Anne Farley (Delmarva Power and Light)
- David White (Fresh Delaware)
- Joseph Jurkofsky
- Jeffery Horvath (Delaware Police Chief's Council)
- Matthew Burday (Medical Society of Delaware)
- Ken Grant (AAA Mid-Atlantic)
- Nandi Randolph
- Laura Sharer (Delaware NORML)
- Lizzie Golob (Delaware Cannabis Advocacy Network)
- Justin Curran
- John Yeomans (Division of Alcohol and Tobacco Enforcement)
- Wayne Smith (Delaware Healthcare Association)
- Charles Stirk Jr. (Civic League of New Castle County)
- Jeffery Rose (By Any Means Medical)
- James Dechene (Delaware State Chamber of Commerce)
- Jennifer Stark (The Farm)
- James Nolan (Law Enforcement Action Partnership)
- Jacqueline Seifred
- Sam Chick (Delcanna)
- Steve Linton
- Alyssa Bradley (Delaware Poor People's Campaign)
- Olivia Naugle (Marijuana Policy Project)
- Jon Offredo (Office of Defense Service)
- Karen O'Keefe (Marijuana Policy Project)
- Andrea Brownclarke (Building People Power, Metropolitan Urban League, Network Delaware, DelawareCAN)
- Arley Cooper
- Dr. Edward Miller (Fresh Delaware)
- Jene Duffy (American Cannabis Nurses Association, Cannabis Nurses of Color)
- Lynne Kielhorn
- Aaron Epstein (Cantech Delaware LLC)
- Dustin McDonald (Americans for Safe Access)



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Baltimore, Maryland, USA

Asst. District Attorney Allison Watson, Fmr.  
Tennessee, USA

Detective Sergeant Neil Woods, Ret.  
Derbyshire, England, LEAP UK

Date: March 24th, 2021

Re: HB 150 - Delaware Marijuana Control Act

Position: SUPPORT

To: The Delaware House Revenue and Finance Committee

Distinguished Members of the Committee,

Thank you for the opportunity to testify today. I am here to represent my own views as a subject matter expert and as a speaker for the Law Enforcement Action Partnership (LEAP). LEAP is a nonprofit group of judges, prosecutors, police, and other criminal justice professionals who speak from firsthand experience on changes we believe can improve public safety.

Having served as a judge for the District Court of Tulsa, Oklahoma, I had to decide how to best administer justice for my community as cases came across my docket. About half of those cases were related to drug possession or sales, or violent disputes over drugs. As much as I appreciated the job security, I would rather have spent my days trying cases in which the defendants were accused of serious crimes. I wish that I could look back on that time in my career and say I made my community safer.

After decades of hearing marijuana cases, I realized that each seller who gets arrested is immediately replaced by someone else. When customers are easy to find, someone new will be tempted by the easy money. Our best efforts at law enforcement have never actually prevented people who wanted to use marijuana from getting their hands on it.

We are wasting justice system resources chasing after marijuana sellers. If police didn't have to arrest the constant stream of dealers, and if the courts didn't have to deal with them, we could focus on serious crime.

Also, these convictions carry lifelong consequences. Many of us know a teenager who was tempted by the easy money and started selling marijuana. Usually, they stopped when they went to college or got a job. But if they were caught and charged with a felony, that conviction will likely prevent them from getting a degree, a job, or an apartment. The felony conviction does not stop them from continuing to sell; it gives them a big push down the wrong path.

**LawEnforcementActionPartnership.org**

*Formerly known as Law Enforcement Against Prohibition*

Other states have found a marijuana strategy that is working. The Colorado Department of Public Safety's impact report of marijuana legalization found that youth usage rates for the 2015-2016 school year were the lowest they've been since the 2007-2008 school year. The proportion of high school students having tried marijuana or having used in the last 30 days remained statistically the same between 2005 and 2017. In addition, DUI cases declined by 15% between 2014 to 2017.<sup>1</sup>

In short, the kids are fine, the roadways haven't descended into drug-induced chaos, and the police are doing a better job of staying focused on what people really want.

I'm a resident of the Delmarva Peninsula. I take my judgeship seriously-- even though I'm retired from the bench, I still consider myself a public servant. A cornerstone of our democracy is acknowledging that we can always do better. We must change laws to fit the needs and best interests of our communities.

Thank you for your time and attention.

Judge Gordon McAllister (Ret.)  
District Court of Tulsa, Oklahoma  
Resident of Queenstown, Maryland  
Speaker, Law Enforcement Action Partnership (LEAP)

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<https://www.colorado.gov/pacific/publicsafety/news/colorado-division-criminal-justice-publishes-report-impacts-marijuana-legalization-colorado>

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## **In support of the HB 150 The Delaware Marijuana Control Act**

To: Delaware House Health and Human Development Committee:

I recently retired after 23 years as the Distinguished Professor of Alcohol and Drug Abuse Research at the University of Texas Southwestern Medical Center and over 30 years as an addiction psychiatrist in the Department of Veterans Affairs, having served as the director of substance abuse programs at both the Charleston, South Carolina and Dallas VA Medical Centers. I have published and spoken widely on the biological effects and treatment of addictive disorders (with 200 publications and chapters) and I am the Editor-in-Chief of *The American Journal of Drug and Alcohol Abuse*. I have been honored as Distinguished Fellow by the American Psychiatry Association and American Academy of Addiction Psychiatry. My research has been funded by the National Institute on Drug Abuse (NIDA), the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the Department of Veterans Affairs.

Through my extensive clinical work and research with individuals with substance use disorders I have come to believe that cannabis prohibition has done far more harm than good, and that it should be replaced with thoughtful, science-based regulation for adults 21 and older. Laws against cannabis possession used to be far harsher. These laws did not stop cannabis use back then and they do not stop it now. I have never had a cannabis user tell me that the penalty for cannabis possession influenced their decision as to whether to use it or not. What influences cannabis use or addiction is its cost, the perception of harm, and availability, as well as a user's genetic make-up, personality, environment and co-occurring medical and psychiatric problems. The penalty for use plays little role in this decision. Yet these penalties can cause lifelong problems in employment, housing, receiving student loans, and child custody (1).

Despite the regulation/legalization of cannabis use in many states over the past several years, there were over 600,000 arrests for cannabis possession in the US in 2018. Those who continue to support cannabis prohibition avoid discussing the severe individual and public health harms that are a consequence of these outdated laws, including the continuation of an unregulated and illicit market. Thus, the issue is not whether there are potential harms from cannabis. The issue is whether cannabis prohibition is effective in protecting public health (it is not); whether the known harms of cannabis prohibition, particularly upon persons of color who bear the brunt of the drug prohibition, outweigh the potential harms of cannabis regulation (they do not), and whether the individual and public health benefits from a science-based regulatory system of cannabis for adult use (they do).

As the California Medical Association (CMA) explained in its 2011 white paper endorsing cannabis regulation (2):

“Thus far, the criminalization of cannabis has proven to be a failed public health policy for several reasons, including:

- a) The diversion of limited economic resources to penal system costs and away from other more socially desirable uses such as funding health care, education, transportation, etc.;
- b) The social destruction of family units when cannabis users are incarcerated, rather than offered treatment and other social assistance;
- c) The disparate impacts that drug law enforcement practices have on communities of color;
- d) The continued demand for cannabis nationally, which supports violent drug cartels from Mexico and other international sources;
- e) The failure to decrease national and international supplies of cannabis from criminal and unregulated sources;
- f) The failure of the federal government’s limited actions through the ‘War on Drugs’ in mitigating substance abuse and addiction.”

### **Key Points of Controversy**

- There is no perfect societal response to the dangers of substances, including alcohol, nicotine, cannabis, opioids or amphetamine. What we *do* know is that the damage caused by prohibition, including cannabis prohibition, has taken a terrible toll on our country. Legalization of cannabis accompanied by thoughtful, scientific-based regulation far outweighs the dangers of an unregulated, illicit market with easy access to minors (see [dfcr.org/background](https://dfcr.org/background)). Potential misuse of cannabis is best addressed by regulation (including limitations on advertising), informative labeling, education, and prevention.
- From a pharmaceutically perspective, botanical cannabis is a very safe drug. In the U.S., tobacco killed almost 500,000 people last year, alcohol almost 90,000. The opioid epidemic was responsible for over 80,000 overdose deaths over the last 12 months reported (May 2019-May 2020). In contrast, even though cannabis was first legalized in the U.S. 25 years ago and the full plant is now legal in 36 states and the District of Columbia, nobody has ever died from a cannabis overdose. In Colorado, the latest data from the Rocky Mountain Poison and Drug Safety report 973 human exposures to cannabis from Jan 2017 through June 2020 (30 months). To put that into perspective, during this same time period there were approximately 100,000 calls to Colorado Poison Control and approximately *1000 overdose deaths from opioids*. To quote Larry Wolk, the Former Executive Director of the Colorado Department of Public Health and Environment,  
"We haven't seen any dramatic changes from a public-health standpoint . . . we haven't seen an increase in youth use or adult use, and we haven't seen an increase in DUIs. We had a little blip as far as calls to emergency control and hospital-room visits, but much of that has leveled off and is explainable by other reasons." (3)
- *Minors are protected by a regulated market.* A wealth of studies have shown that cannabis use in minors has *not* increased in states with legalized cannabis (4-6). A recent study in JAMA Psychiatry (7) found that any use and frequent use of cannabis did *not* increase in 12-17 years old individuals and cannabis use disorder was *lower* in 2013-2016 (after adult use legalization) compared to before legalization (see Figure 3, left panel). Colorado was the first state to have legal, adult-use sales. A sting operation in Colorado found that 98.5% of buyers 18-20 years old were unable to buy cannabis in a legal dispensary (8). Colorado Healthy Kids Survey [(9), Fig 5 and (10)] showed that high schoolers reported past-30 day cannabis use *decreased* from 22.7% in 2005 to 22.0% in 2011 and to 20.6% in 2019. Using different survey methodology, the CDC’s Youth Risk Behavior Surveillance found 22% of Colorado

high schoolers reporting past-30 day use immediately pre-legalization in 2011 and 20.1% in 2019 (11). Notably, the past-30 day use in Colorado high school students was 3-4% higher than U.S. high school students in 2003 through 2009 (using YRBS data) but has been persistently *lower* than U.S. high school students from 2011 through 2019.

Thank you for allowing me the opportunity to weigh in your committee's consideration of cannabis legalization for adult use. I have also included a recent manuscript of mine on Implementing Social Justice in the Transition for Illicit to Legal Cannabis that may be interest.

Sincerely,



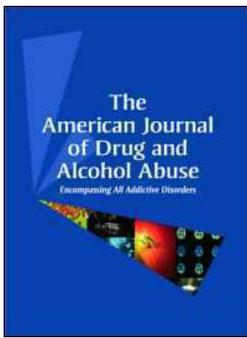
Bryon Adinoff, M.D.  
Executive Vice President, Doctors for Cannabis Regulation  
Denver, Colorado

*Doctors for Cannabis Regulation (DFCR) serves as a global voice for physicians and other health professionals who support cannabis legalization and science-based regulation. DFCR promotes public education, research, and advocacy to support legislative changes necessary for improved public health, social justice, and consumer protections.*

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REVIEW



## Implementing social justice in the transition from illicit to legal cannabis

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### ABSTRACT

**Background:** The legalization of cannabis for adult use is being increasingly embraced in several countries and local entities. A driving force for these changes has been the individual, family, community, societal, and economic costs of cannabis prohibition, which have fallen most heavily upon disadvantaged minority populations.

**Objectives:** In this review, we explore whether the legalization of cannabis has begun to correct the injustices of cannabis prohibition. Progress is assessed in five areas of social justice related to cannabis prohibition: expungement of previous arrests and convictions for cannabis-related crimes that are no longer illegal; consequences of cannabis-related offenses in a cannabis-legal environment; diversity of the cannabis-legal industry; funding of equity and/or restorative justice programs for those communities most affected by cannabis prohibition; and risks of cannabis legalization negatively impacting the populations that most suffered under the legacy of cannabis prohibition.

**Methods:** Iterative and focused review.

**Results:** There has been some progress in expunging previous cannabis-related convictions, particularly misdemeanors, and decreasing cannabis-related arrests. Encouraging diversity in the cannabis industry and the funding of equity programs has been very limited. There is no evidence to-date that populations that have suffered most as a result of cannabis prohibition are at increased risk from its legalization.

**Conclusions:** Focused regulatory efforts and financial resources (from both cannabis revenue and savings from the abolition of cannabis prohibition) as well as more attentive data collection and analysis should be utilized to assure that all individuals experience the benefits, and avoid the consequences, of cannabis legalization.

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### KEYWORDS

Marijuana; social justice; legalization; substance use; expungement

## Introduction

The repeal of laws prohibiting the production and sale for the non-medical use, or “adult/recreational use,” of cannabis is being undertaken in a number of countries. In 2012, the United States (U.S.) states of Colorado and Washington were the first jurisdictions in the world to legalize the production, distribution, sale, and use of cannabis. Since that time (as of July 2019), an additional ten states and the District of Columbia (D.C.) representing 20% of the U.S. population have legalized the adult use of cannabis (all but two through a ballot initiative) (1,2) (Table 1). Two U.S. territories (Northern Mariana Islands and Guam) have also legalized adult use cannabis. Uruguay legalized cannabis for personal use in 1974 and for cultivation and sale in 2013 (15) and Canada legalized cannabis in 2018 (16); in 2009 Argentina’s top court determined that it was unconstitutional to punish individuals for the possession of drugs for personal consumption (3); in 2018 the top courts

of both South Africa (17) and Mexico (18) ruled that cannabis prohibition was unconstitutional, in effect legalizing the personal use of cannabis; existing legislation in Spain is generally interpreted to allow personal cultivation in the home (19). Polls show that support for cannabis legalization for adult use has progressively increased in the U.S. since 1990; a substantial majority (on both sides of the political aisle) now support its legalization (20). U.S. and Canadian industries have invested billions of dollars into the cannabis trade (quadrupling from 2017 to 2018) (21) and cannabis-derived tax revenues are perceived to be of significant benefit to government budgets (22). The continued legalization of adult-use cannabis in additional U.S. states as well as other countries is likely.

Frequently lost in these discussions are commonly cited rationales that have historically driven cannabis legalization—that the individual, family, community, societal, and economic costs of cannabis prohibition far outweighed the potential downsides of cannabis legalization (23–25).

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**Table 1.** Adult use cannabis legal U.S. states.

State	Year Passed	Ballot or Statute
Alaska	2014	Ballot, Measure 2 (4)
California	2016	Ballot, Prop64 (5)
Colorado	2012	Ballot, Amendment 64 (6)
D.C. <sup>a</sup>	2014	Ballot, Initiative 71 (7)
Illinois <sup>b</sup>	2019	Legislative, HB 1438 (8)
Maine	2016/2018	Ballot, Question 1/Legislative – LD 1719 (9)
Massachusetts	2016/2018	Ballot, Question 4/Legislative – H3818 (10)
Michigan	2018	Ballot, Proposal 1 (11)
Nevada	2016	Ballot, Question 2 (12)
Oregon	2014	Ballot, Measure 91 (13)
Vermont <sup>a</sup>	2018	Legislative, H. 511 (13)
Washington <sup>b</sup>	2012	Ballot, I-502 (14)

<sup>a</sup>supply prohibition (personal cultivation/possession/use only)

<sup>b</sup>personal cultivation not permitted

A key concern of cannabis prohibition—particularly in the U.S.—was that the burden of these costs was born by disadvantaged minority populations, particularly Black and Hispanic individuals and communities (26–29). Between 2001 and 2010, for example, there were over eight million arrests in the U.S. for cannabis, almost 90% of which were for possession. [Data extracted (30) from FBI data bases (31)]. This trend has continued, with over 650,000 arrests for cannabis law violations in 2017 in the U.S (32). Despite similar rates of use in the U.S., arrest rates of Black individuals were almost four times that of Whites; in some counties, Blacks individuals were up to 30 times more likely to be arrested than white residents (30). In London, Black individuals are charged with cannabis possession at five times the rate of Whites (33); Indigenous and Black persons in Canada suffer three to nine times arrest rates for cannabis possession compared to Whites despite similar rates of use (34,35). In several U.S. states, the consequences remain quite severe. In Texas, for instance, an arrest for even minimal amounts of cannabis can result in 180 days in jail, a \$2000 fine (Texas Statutes Sec.481.121), and six months loss of driver’s license (36). The arrest also requires bail to obtain release from jail and potentially negative consequences for child custody and employment opportunities. Even short periods of incarceration to the economically disadvantaged may cause severe hardships; a few days of missed work may lead to job termination. The consequences of a cannabis-related arrest or conviction may persist a lifetime, affecting one’s ability to obtain employment, a car loan or mortgage, student financial aid (37), or public housing (38).

For several decades, policy analysts (39,40), advocacy groups (41,42), medical organizations (43), and legislative reports (44,45) have proposed that the legalization of cannabis would significantly lessen arrests and incarcerations for cannabis-related offenses. Particularly in the U.S., it was also hoped that cannabis legalization would most benefit those

who had experienced the greatest harmed (e.g., communities of color) by cannabis prohibition (41,43,46,47) and that taxes generated from the cannabis trade could be used to help rebuild communities disproportionately harmed by cannabis prohibition (48). This paper explores how successfully the cannabis legalization laws have addressed these inequities. Thus, while the legalization of cannabis has allowed adults to use and, in most cannabis-legal states, grow cannabis without risk of arrest (Table 1), generated sizable tax revenue, and offered the promise of significant wealth to many individuals and industries, there has been relatively little consideration as to whether or not cannabis legalization has adequately responded to the social justice concerns that helped precipitate this sea change in drug laws.

This paper will also review progress in addressing the past injustices caused by cannabis prohibition, with the caveat that cannabis legalization only began seven years ago, has taken place in only a few geographic entities, and relevant data is scarce. Although the term “social justice,” by definition, could include the distribution of wealth, opportunities, and privileges, environmental protection as well as personal or public safety, our paper will focus on aspects of social justice most relevant to the past harms of cannabis prohibition (i.e. personal and societal costs of cannabis-related arrests and convictions). In entities where adult-use cannabis has been legalized, we will examine 1) if cannabis-legal states have enacted procedures to remove the harms of prior cannabis convictions, 2) if arrests and convictions for cannabis-related offenses have decreased and whether the severity of penalties for illicit activities risk perpetuation of prior injustices, 3) whether systems have been implemented to assure minority access to the legal cannabis industry 4) whether tax revenues generated from legal cannabis have been earmarked to fund equity and/or restorative justice programs for those communities most affected by prohibition, and 5) whether cannabis prohibition poses particular risks to the populations that bore the brunt of cannabis prohibition. These discussions will be followed by recommendations for future initiatives to maintain a social justice perspective on cannabis legalization.

Citations in this review were drawn from a wide variety of sources. Given the limited time frame of adult-use cannabis legalization, jurisdictional variability in cannabis laws, a relative absence of government

funding for the assessment of social injustice, and a rapidly changing political and legal landscape, peer-reviewed manuscripts are in short supply. Thus, we leaned heavily upon the gray literature (government documents and white papers) and, when appropriate, lay publications. Because of significant transformations occurring in real time, we have attempted to have our review current as of June 2019. Given the presence of cannabis-legal jurisdictions in the U.S. for several years and the resultant availability of outcome data, the complexity and variability of U.S. state differences regarding social justice, and the significantly greater attention and analysis given to social justice issues in the U.S. [primarily from advocacy groups (28,41)] relative to other cannabis-legal jurisdictions, the paper has a U.S. centric-focus.

### Expungement of prior cannabis-related arrests and convictions

One of the key goals of cannabis legalization was to remove the unnecessary and harmful consequences of cannabis-related infractions. Even with cannabis legalization, however, the consequences of a previous arrest and/or conviction for a cannabis-related offense persists. Thus, expungement of previous records is a necessary accompaniment to cannabis legalization.

The International Covenant on Civil and Political Rights (ICCPR) (49), a multilateral treaty adopted by the United Nations General Assembly, states that when a change of law will benefit a previously arrested or convicted offender, then the new law should be retroactively applied (50). The principle of retroactive application of a beneficial or ameliorative law is referred to as *lex mitior*, or the mercy doctrine, where laws are applied *in mitius* (“mildly”). (This is a corollary of *ex post facto* laws, which prohibit the retroactive application of new, harsher laws that become operative after a crime has occurred). Thus, the principle of *lex mitior* recommends that entities that legalize cannabis should remove cannabis-related convictions that occurred under previous laws.

In the U.S., expungement (a court-ordered process in which the legal record of an arrest or a criminal conviction is “sealed,” or erased in the eyes of the law) of previous cannabis convictions is often included in initial ballot initiatives or legislation for cannabis legalization [Table 2 (1,52)]. Other states have approached expungement only *subsequent* to cannabis legalization (possibly to minimize voter resistance to legalization). This is often a matter of expediency, as the forgiveness of previous drug-related offenses can strike many voters as unfair

(e.g., if you break the law and are convicted in a court of law, you should suffer the consequences) and the process can be expensive and time-consuming. Three cannabis-legal states have not considered accommodations for expungement. When offered, expungement is almost always limited to convictions for possession only (less than one or two ounces), often requires that no other criminal convictions be on record, and may require a waiting period (e.g., three years) following conviction before expungement can be requested.

Typically, expungement occurs through a petition process initiated by the individual with the criminal record. The petition process, however, can be cumbersome, time-consuming, and expensive. Even upon successful completion of the petition, it may be denied. Because of these barriers, few petitions have been submitted. Of 78,000 cannabis-related convictions that could be set aside in Oregon, for example, only several hundred requests for set-asides were received in 2015 and 2016 (53). And whereas nearly half a million people were arrested for cannabis-related offenses over the past decade in California, less than 5200 applications were received (thru March 2018) to reclassify these offenses (54).

The racial/ethnic distribution of those applying for and/or receiving expungement has not, to our knowledge, been reported. It seems likely that those applying for expungement are of more substantial means (e.g., available time, skill at navigating administrative requirements, resources to hire a lawyer to guide the process and/or pay the required fees), thus lessening the likelihood disenfranchised individuals would petition for expungement. Given the racial bias of the U.S. criminal-justice system, Blacks and Hispanics would also be at increased risk of having additional convictions, often making them ineligible for expungement. Offering expungements to only those convicted of possessing small amounts of cannabis further continues the racial inequities, as the majority of felony convictions for cannabis-related offenses were suffered by minority populations. [In 2014 in California, for instance, Black people accounted for 24% of those incarcerated for cannabis-only offenses despite making up 6% of the state’s population (55).] Finally, the added contingencies greatly diminish the impact of expungement. In 2018, Washington state offered an easy path for expungement of previous state (not local) cannabis possession convictions, provided the applicant had only a single misdemeanor conviction for adult cannabis possession between 1998 and 2012 and no other convictions, ever. Of the convictions that followed from an estimated quarter million cannabis-related arrests in

**Table 2.** U.S. states approval of expungement/sealing of previous cannabis convictions. In cannabis legal states, expungement was approved with initial ballot initiation/legislation unless otherwise noted. Individuals must petition for expungement unless otherwise noted (i.e. California, Illinois).

Cannabis Legal States		Cannabis non-legal states	
Alaska	Does not allow conviction to be sealed or expunged. Conviction of cannabis offense bars participation cannabis industry.	Delaware	2015: SB197 allows for mandatory expungement of convictions occurring before Dec 18, 2015 for activities that became civil penalties upon enactment of decriminalization.
California	Courts can be petitioned for resentencing, changing some felonies to misdemeanors, some misdemeanors to infractions, and removal of convictions for possessing or growing small amounts of cannabis. 2018: Cannabis Convictions Resentencing, Misdemeanors automatically expunged; felonies automatically reduced to misdemeanor.	Maryland	2015: SB 651, allows expungement for cannabis convictions for offenses that are no longer crimes. 2017: SB 949, reduced waiting period for expungement of a cannabis possession offense from 10 years to four years
Colorado	2017: Petition to seal misdemeanor offense for use or possession if offense would not have been a crime if committed prior to legalization. Colorado Court of Appeal ruled that state’s legalization law applied retroactivity to cannabis possession convictions that had not become final when law took effect (51).	Missouri	2017: SB 588, expanded eligibility for, reduces waiting periods, and creates presumption in favor of expungement for all cannabis misdemeanors and many felonies.
D.C.	None identified	New Hampshire	2017: SB 391, amended to 2 years the waiting period for petitioning for annulment of a misdemeanor cannabis or hashish offense.
Illinois	Automatic expungements for convictions for up to 30 grams. For 30–500 grams, individual or state’s attorney can petition the court to vacate.	Rhode Island	2015: SB 518, records of cannabis violations are sealed to the public.
Maine	None identified	New Jersey	2014, A3206 and SB 2663, allows expungement of records of those who successfully complete special probation drug court.
Massachusetts	2018: M.G.L c276 § 100A and M. G.L. c. 94G, § 13 allows the sealing of records for offenses that are no longer crimes.	New York	2019, A.2142 and S.3809 allows automatic sealing of low-level cannabis possession convictions.
Michigan	None identified		
Nevada	None identified		
Oregon	2015: SB 364, certain misdemeanor cannabis offenses can be set aside when probation has been successfully completed; SB 844, cannabis possession crimes eligible for expunction. 2016: SB1598, expungement allowed for cannabis convictions for offenses that are no longer crimes.		
Vermont	2015: SB 115, allows expungement for cannabis convictions for offenses that are no longer crimes		
Washington	2019, SB 5605, courts can expunge misdemeanor cannabis convictions.		

Washington during that time period, only 3,500 were eligible for expungement (56). A year later, however, a far more comprehensive expungement bill was passed, inclusive of all state and municipal cannabis misdemeanor convictions (56).

In 2018, California hastened the expungement of cannabis-related offenses. The Cannabis Convictions: Resentencing bill (57) required the California Department of Justice to review all state records and identify past convictions eligible for recall, dismissal, sealing, or re-designation. Prosecutors had up to a year to vacate the conviction or to reduce it from felony to misdemeanor. Unless challenged, the conviction was to be automatically reduced or dismissed. This approach put the onus of expungement on the state and allowed (presumably) for the reduction or dismissal of hundreds of thousands of past convictions. Some cities outside of California have implemented a similar system, but it remains atypical. To date, Illinois is the only state that has included automatic expungement for previous convictions [of up to 30 grams (1 ounce)] in their initial cannabis bill (HB1438, 2019). Yet caution is advised: the president of the Illinois State Attorneys Association has reportedly stated the “legislative pardons” may violate the state’s constitution (58). New York state has also passed legislation (A. 2142 and S. 3809) automatically sealing low-level cannabis possession convictions for over 150,000 persons, although individuals must petition the courts for their records to be destroyed. Interestingly, cannabis possession in New York remains illegal (albeit subject only to a fine for less than 2 ounces).

In 2019, Bill C-93 (“An Act to provide no-cost, expedited record suspensions for simple possession of cannabis”) received royal assent and became law in Canada. This act allows individuals convicted of simple cannabis possession, estimated to be approximately 250,000 persons, to apply for a suspension (but not expungement) of their conviction. Individuals must wait until after serving their sentence and paying their fines and victim surcharges (59).

The situation in other countries is more difficult to assess. In 1974, Uruguay legalized the possession and use of *all drugs* (15). Thus, there were no cannabis possession convictions to expunge. Uruguay’s legalization of cannabis cultivation and sale in 2013 did not offer expungement of previous cultivation/sale convictions (60) and, to our knowledge, this process is not being considered. Similar uncertainties exist for the status of previous cannabis-related convictions in Mexico and South Africa, where courts have ruled that cannabis prohibition is unconstitutional. These

rulings, in and of themselves, would not automatically reverse previous sentences.

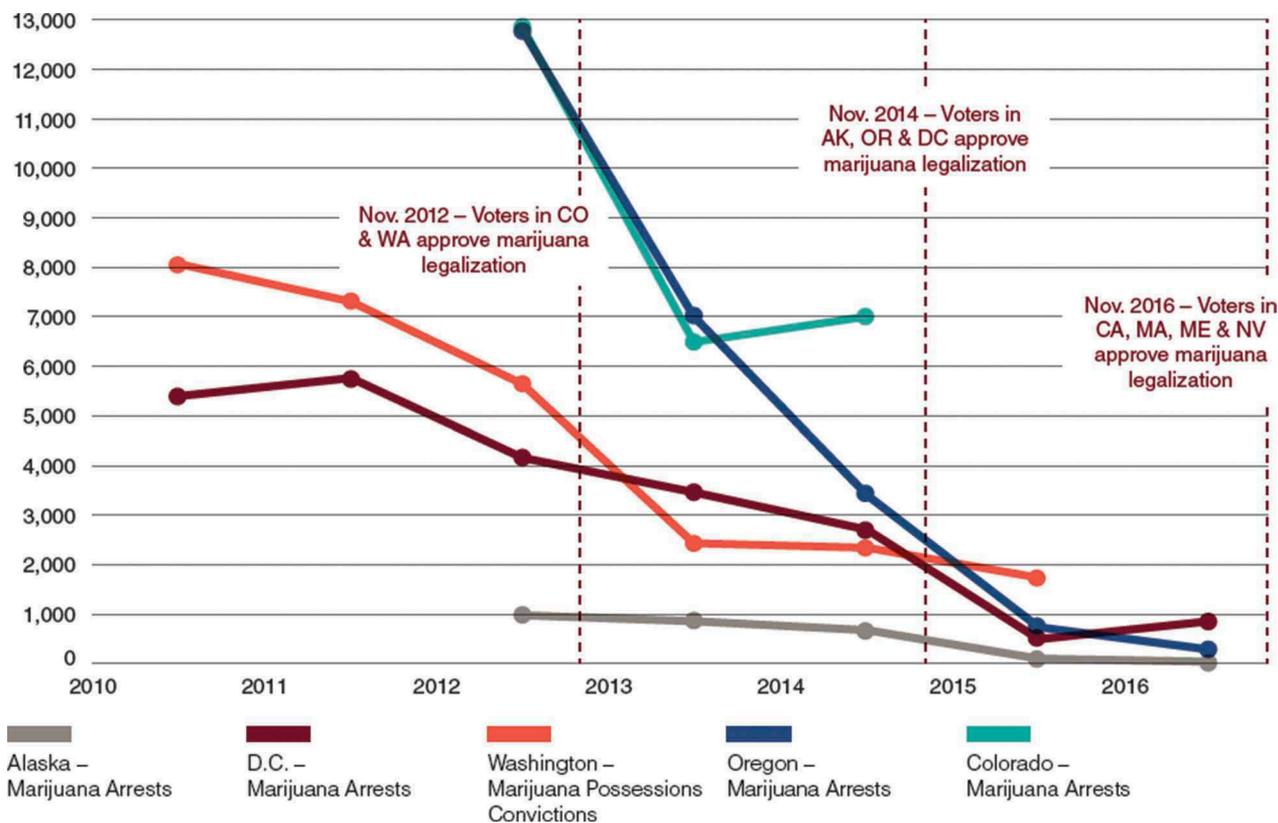
**Recommendations:** Following the principles of *lex mitior*,

- Expungement or downgrading (from felonies to misdemeanors) for all cannabis-related offenses that occurred prior to the approval of cannabis legalization should be included in any bill or ballot initiative legalizing cannabis. When necessary, these initiatives can be passed following cannabis legalization or even in the absence of legalization.
- Expungement should be provided *automatically* (unless challenged by the prosecutor), without the need for a petition. Resources should be provided to prosecutors to implement expungement/downgrading. If a petition is required, the process should be free-of-charge and simplified as much as possible.
- Previous or subsequent arrests/convictions for non-cannabis-related charges and waiting periods following an arrest or conviction for a cannabis-related offense should not impede the granting of expungements/downgrading.
- When petitions are required, the number of expunged/downgraded convictions and their racial distribution should be monitored and reported.

### **Cannabis-related offenses in a cannabis legal environment**

The term “legalized cannabis” is commonly used to describe an environment where cannabis can be legally cultivated, sold, possessed and used without legal consequence. In fact, there are extensive regulations that guide each of these activities, as there are for the cultivation, distribution, and sale of lettuce. This produces a difficult conundrum, in that support for the legalized cannabis market requires an effort by the authorities to prohibit the illicit market. Cannabis-related crimes such as robbing a dispensary, tapping into electric lines, and causing environmental damage for cultivation (61) should clearly be dealt with under laws not associated with the cannabis trade. But infractions such as cultivating or selling cannabis without a license are more complicated; it remains important that cannabis-related transgressions do not result in a continuation of the harsh penalties and racial inequities incurred during cannabis prohibition.

While arrests for cannabis violations have dramatically decreased in states with legal cannabis, most



**Figure 1.** Annual cannabis arrests by state in cannabis legal states, prior to and following legalization [(62), with permission from Drug Policy Alliance].

arrests are for underage use and public consumption. Over just two or three years, arrest rates in Alaska, Washington, D.C., and Oregon fell by 90% (and up to as much as 99%) (62) (Figure 1). In Colorado, decreases in arrest rates were more modest, partly due to low rates prior to legalization and partly due to increases in arrests for public consumption. Despite marked decreases in arrest rates of all races/ethnicities, continued disparities in arrest rates persisted—with Blacks and Hispanics being arrested at rates at least double those of Whites (62–65). In Washington, DC, for instance, arrests for public consumption almost doubled between 2014 and 2018, the vast majority being Black men. In Washington state, an 87% decrease in cannabis possession arrests (for those  $\geq 21$  years old) from 2012 (onset of legalization) to 2015 was accompanied by an increase in the relative disparities between Black and White 2.5 to 5 (65); in Colorado (2012–2017), arrests of Blacks for cannabis violations remained double those of Whites (63). Thus, while cannabis legalization successfully lessened the numbers of minorities arrested for cannabis-related offenses, it appears that underlying racial biases persist.

Penalties for public consumption are relatively lenient (Table 2). In the U.S., consumption in cannabis

legal states is illegal in all public spaces, although Colorado recently approved cannabis consumption areas (2019, HB1230). Public consumption is a misdemeanor in Nevada but a civil penalty in all other states (52,66). In Canada, limitations on public consumption may include all public spaces, around children, or in cars or permitted anywhere tobacco is allowed or in private residences only, depending on the province (67). Fines for public consumption can be as high as \$2000 (in Nova Scotia) (68). In Uruguay, cannabis can be consumed wherever tobacco is consumed (60). Penalties for underage use (below 21 y/o in the U.S., below 18 or 19 y/o in Canada, and 18 y/o in Uruguay) appear, to our view, appropriate. Typical penalties require attendance at drug awareness education, counseling, or community service. More significant penalties may include significant fines and/or loss of driver's license. Perhaps the most problematic penalty is the potential loss of U.S. federal financial aid for college, since this is driven by federal law (37).

Adult-use cannabis statutes have typically not addressed penalties for cannabis use/cultivation/sale/distribution falling outside of the adult-use statutes [with the exception of California and Canada (67)]. Thus, the prior laws for offenses (e.g., illicit cannabis

cultivation) not included in the cannabis-legal statutes have remained intact or been revised in distinct statutes. In the U.S. and Canada, the possession/sale/distribution/cultivation of relatively small amounts of cannabis over the legal limit typically result in misdemeanors with small fines and less than a year of incarceration [Table 3 (52,66,69)]. In contrast, penalties for larger amounts can be extremely harsh; e.g. sale/distribution in Colorado of >50 pounds (lbs) is punishable by up to 32 years in prison and \$1,000,000 fine; in Michigan, >45 kilograms (kg) is punishable by up to 15 years and \$10,000,000 fine; in Nevada, ≥10,000 lbs up to life in prison; and in Canada, large amounts up to 14 yrs. An exception is California, where penalties for cultivation/sale/distribution of even large quantities of cannabis is a misdemeanor. However, the penalties for the sale/distribution to minors is universally severe.

Significant risks of cannabis-related arrests persist in jurisdictions that have legalized the personal use of cannabis but do not allow a legal means for the commercial cultivation, distribution or sale [i.e. “supply prohibition” (70)]. This is the present situation in Washington D.C., Vermont, South Africa, and Mexico. Similar risks are likely even in some U.S. states that have legalized the commercial cultivation/sale/distribution of cannabis, as the majority of jurisdictions (e.g. counties, cities) have not allowed the licensing of grows or dispensaries, thus increasing the risk of illicit activity. For example, 250 Michigan communities have banned cannabis businesses (71); in California, only one in three cities (144 of 482) and counties (18 of 58) permit cannabis businesses (72). The laws in these supply prohibition jurisdictions offer protection to the user but not for the person who provides the product (typically more marginalized populations).

#### Recommendations:

- Penalties for public consumption, smaller amounts of cannabis, and underage use in cannabis legal locales generally appear appropriate to the offense. It will be important to track whether the drug education, counseling, community service, and/or fines affect subsequent re-arrests for underage use. Localities that legalize cannabis should be mindful of the impact that even small fines can have on disadvantaged communities as unpaid fines can result in a warrant or revocation of parole or probation. In the U.S., the consequences of cannabis convictions on school loans and public housing will need to be addressed at the federal level.
- Jurisdictions should continue to monitor the number of arrest/convictions and racial disparity.

Of particular concern is the racial distribution of more severe penalties, both in terms of numbers of convictions and sentence severity.

- In the U.S., jurisdictions in cannabis use legal states that continue supply prohibition should reconsider this stance.

### **Transitioning to a legal cannabis business environment**

In the U.S., participating in the regulated market requires obtaining a license from the appropriate state agency for the cultivation, distribution and/or sale of cannabis, which may require local approval as well (71,72). In most states, previous cannabis-related convictions (as well as other criminal records) disqualify an applicant from obtaining a license or even being an employee in the cannabis industry (73). For instance, in Colorado, an applicant for a cannabis business license cannot have a felony conviction within the previous five years; if the felony is cannabis related, the applicant must wait ten years (74). Next, a licensing fee must be paid to the state and sometimes the city/county. The license fees can be significant; in California, for example, license fees for a retailer range from \$10,000 for a small business (less than \$1,000,000 gross revenue) to \$300,000 for a large microbusiness (over \$80,000,000 gross revenue) (75). More problematic is meeting the state regulatory requirements for security, monitoring, testing, etc., that may cost upwards of several hundred thousand dollars (76,77). Local regulations can add an additional burden. In Canada, licenses to private firms for the cultivation of cannabis are provided at the federal level (78). Fees for application, security, and license vary from approximately \$5500 (Canadian) for micro-processing/cultivation to approximately \$28,000 for standard cultivation and sale (79). Individuals who have histories of nonviolent, lower-risk criminal activity (such as simple possession or small-scale cultivation of cannabis plants) may be able to participate in the legal industry, depending on the circumstances (80).

Given the historical and present difficulties minorities have experienced in accessing capital (81), the significantly lower wealth in minority populations (82), and racial bias in drug-related convictions that often exclude industry participation (83), it is presumed that minorities have dramatically lowered opportunities for participation in the cannabis industry (83). However, empirical data documenting poor industry penetration into the industry is lacking [a commonly cited survey did not utilize statistically rigorous methods (84)]. To our

**Table 3.** Penalties for illicit public use, cultivation, sale, and distribution for cannabis-legal U.S. states and Canada (1). Penalties shown are maximum. Only first-time penalties for smallest and largest amount of cannabis plant number or cannabis weight are shown. For sale to minors, penalty may differ on age of minor and age of seller. Mnths (months) and yrs (years) refers to maximum incarceration penalty. y/o = years old; oz = ounce [one ounce = approximately 30 gm].

State	Public Use	Sale to underage <sup>a</sup>	Possession above legal limit	Illicit cultivation	Illicit Sale or Distribution
Alaska	Violation/\$100	to <19 y/o: felony/10 yrs	1–4 oz: misdemeanor/one yr/\$10,000 <sup>a</sup> ; >4 oz: felony/5 yrs/\$50,000	>25 plants: felony/5 yrs	<1 oz: misdemeanor/1 yr; ≥1 oz felony, 5 yrs
California	\$250 fine	felony/7 yrs	>1 oz: misdemeanor/6 mnths/\$500	>6 plants: misdemeanor/6 mnths/\$500	>1oz: misdemeanor/6 mnths/\$500
Colorado	Petty offense/\$100	to <18 y/o: felony/14 yrs/\$1,000,000	1–2 oz: petty offense/\$100; >12 oz: felony/1–2 yrs/\$100,000	6–30 plants: 6 mnths–2 yrs/\$100,000; >30 plants: felony/2–6 yrs/\$500,000	>4oz: misdemeanor: 6–18 mnths/\$5000; >50 lbs: 8–32 yrs/\$1,000,000
D.C.	cite and release	doubled penalty	>2 oz: misdemeanor/6 mnths/\$1000	<1/2 lb: 6 mnths/\$1000	<1/2 lb: 6 mnths/\$1000
Illinois	Not known	twice the maximum term	30–500 gm: felony/6 yrs/\$25,000; >5000 gm: felony/30 yrs/\$25,000	5–20plants: felony, 6 yrs/\$25,000; >200 plants: felony, 30 yrs/\$100,000	<10 gm: misdemeanor:1 yr/6 months/\$2500; >5000 gm: felony: 60 yrs/\$200,000
Maine	civil infraction: \$100	5 yrs/\$5000	2.5–8oz: 6 mnths/\$1000; >20lbs: 10 yrs/\$20,000	3–100 plants: 1 yr/\$2000; ≥500 plants: 10 yrs/\$20,000	≤1lb: 1 yr/\$2000; >20lbs: 10 yrs/\$20,000
Massachusetts	civil fine of up to \$100.	2–15 yrs/\$25,000	>1 oz: 6 mnths/\$500a	<50lbs:0–2 yrs/\$5000; ≥10,000lbs: felony/15 yrs/\$100,000	<50lbs: 0–2 yrs/\$5000; ≥10,000lbs: felony/5–15 yrs/\$100,000
Michigan	\$100 fine	felony/4 yrs	>2.5oz: \$500a	12–24plants: civil infraction/\$500; >200 plants: felony/15 yrs/\$10,000,000	<5 kg: felony/4 yrs/\$20,000; >45 kg: felony/15 yrs/\$10,000,000
Nevada	misdemeanor: \$600	felony/5 yrs-life /\$20,000	>1oz: misdemeanor/\$600b	>12 plants:felony/1–4 yrs/\$5000b; >10,000lbs: felony/5 yrs-life;\$200,000b	>1 oz <100lbs: felony/1–4 yrs/\$5000b; ≥10,000 lbs: 5-life/\$200,000b
Oregon	misdemeanor: \$1000	felony/5 yrs/\$125,000	1–2 oz: violation/\$650; >4 oz: misdemeanor/1 yr/\$6520 <sup>5</sup> ; at home: 1–2 lbs: misdemeanor/6 mnths/\$2500; >2lbs: misdemeanor: 1 yr/\$6520	4–8 plants: misdemeanor: 6 mnths/\$2500; >8 plants: felony/5 yrs/\$125,000	≥16 oz: misdemeanor/1 yr/\$6250
Vermont	civil penalty: \$100	felony/5 yrs/\$25,000	1–2 oz: misdemeanor/6 months/\$500; ≥10lbs: felony/15 yrs/\$500,000	6–10 plants: felony/3 yrs/\$10,000; >25plants: felony/15 years/\$500,000	<0.5oz: misdemeanor/2 yrs/\$10,000;>50lbs: felony/30 yrs/\$1,000,000
Washington	civil penalty: \$100	felony/10 yr/\$10,000	1 oz–40 g: misdemeanor: 24 hrs–90 days/\$10,000/>40 g: felony/5 yrs/\$10,000	any amount: felony/5 yrs/\$10,000	any amount: felony/5 yrs/\$10,000
Canada	varies by province <sup>b</sup>	14 yrs	small amount <sup>c</sup> : ticket; large amount: 5 yrs	small amount: tickets; large amount: 14 yrs	small amount: tickets; large amount: 14 yrs

<sup>a</sup>typically refers to minor (under 18 y/o).

<sup>b</sup>e.g., Saskatchewan: \$200 fine; Manitoba: \$672 fine; Nova Scotia: \$2000; Ontario: allowed wherever tobacco can be legally consumed.

<sup>c</sup>“small amounts” in Canada is over legal limit of 30 gm dried cannabis (150 gm fresh cannabis, about 5 ounces).

knowledge, only Massachusetts reports percent of minorities in the cannabis industry. This report states that, as of May 2019, 3.3% (14 of 421) of cannabis business applications were from self-identified minorities (85) [Black/Hispanic persons make up 20% of Massachusetts' population (86)].

Difficulties in transitioning to a legal market can also result from regulatory approaches. In Uruguay, for example, cannabis sales are only allowed thru government pharmacies or social cannabis clubs, only three commercial businesses have been granted licenses to produce cannabis, and purchasers must register with the government (87); in Quebec, Canada, cannabis stores are government run (67). These approaches limit the ability of those presently involved in illicit cannabis activities to transition to a legal business model. In some U.S. states, cannabis taxes have not equilibrated to maximize legal sales (i.e., cannabis taxes are higher than market forces will allow, given the availability of illicit cannabis) [see “Goldilocks” Principle in (88)].

Several U.S. cities (including Portland, Oregon and Oakland, San Francisco, Sacramento, and Los Angeles in California) and states have implemented processes to encourage diversity, both for minority individuals and small businesses. In 2018 California enacted SB1294, allocating grant funding to assist minority-owned businesses in the cannabis industry; in Washington, a drug conviction is not necessarily a barrier to employment in the industry; for those eligible for expungement of cannabis-related convictions, Illinois provides additional points for cannabis business applicants and access to financial resources for start-up costs [(89), p. 11].

#### Recommendations:

- Expungement of previous cannabis-related convictions to allow those in the illicit trade to enter the legal cannabis trade. Allow individuals with nonviolent cannabis-related offenses to participate in the cannabis trade.
- Encourage diversity in the cannabis industry using regulatory systems to support minority-owned cannabis businesses.
- Utilize regulatory systems to encourage the transition of small businesses to the licit cannabis trade.
- Monitor diversity of cannabis business owners and employees.

### **Restorative justice for those harmed by cannabis prohibition**

The personal and social costs of prohibition, particularly in the U.S., have been overwhelmingly experienced by persons of color (30). Accordingly, there has been a state-by-state effort to use cannabis-related revenues

would be used to correct the injustices resulting from cannabis prohibition. While some states have moved in this direction, the response has been limited (Table 4).

Given the widespread harms caused by cannabis prohibition and the overwhelming needs required to begin a reparative process, approaches for improving equity have been quite varied. These diverse approaches are appropriate, given that each locale must respond to their population's needs and political expediency. To our knowledge, all efforts to support equity programs have come from cannabis-related revenues.

The most targeted effort to address the harms from cannabis prohibition are in California, Massachusetts, and Illinois (62). California's “Community Reinvestment Fund” [Cal. Rev. & Tax. Code § 34019(d)] is designed to assist in the rebuilding of “communities disproportionately affected by past federal and state drug policies” and requests applications from community programs to target jail diversion, economic development, and mental health treatment. This program is slated to grow to \$50 million per year. In Massachusetts, a share of tax revenues in the Marijuana Regulation Fund [Mass. Gen. Laws Ann. ch. 94G § 14(b)(v)] is allocated to “programming for restorative justice ... services for economically disadvantaged persons in communities disproportionately impacted by high rates of arrest and incarceration for marijuana offenses.” The funding for these reparative efforts is uncertain, as this fund includes several other priorities and allocations are determined by the legislature. Massachusetts has also adopted provisions to ensure that people from communities that have been cannabis harmed by cannabis law enforcement are included in the legal marijuana industry (93). Illinois gives preference for cannabis licenses to those “disproportionately impacted by both poverty and cannabis drug law enforcement and provide low-interest rate loans ... job training and technical assistance to these businesses”; the Restore, Reinvest, and Renew Program provides resources to support community-based responses to communities impacted by the drug war. In Canada, Koutouki and Lofts (94) observe that “provisions of the Cannabis Act effectively exclude Indigenous communities from making key economic and political decisions regarding cannabis on their own territories,” concluding that, while “there is potential for Indigenous communities to benefit from cannabis legalization, [there is] also a very real risk that the new legal framework will simply perpetuate existing injustices.”

To our knowledge, no other U.S. states and no Canadian provinces have directly targeted programs providing restorative justice to populations most harmed by cannabis prohibition. From a political perspective, it is presumably far more palatable to recommend cannabis-generated tax revenues for educational and enforcement purposes.

**Table 4.** Social equity/diversity and prevention/education/treatment support in cannabis-related initiatives/legislation in U.S. States with cannabis legalization.

State	Support for social equity/diversity	Support for cannabis-related prevention/education/treatment
Alaska	none specified	2018: funds allocated to drug prevention programs that engage young people in skill-building to aid in the prevention of substance use (90)
California	“Community Reinvestment Fund” to address localities damaged by cannabis statutes to local health departments and qualified community-based nonprofit organizations to support activities for communities disproportionately affected by past federal and state drug policies (91)	Identified funds for “Youth Education, Prevention, Early Intervention and Treatment Act” program.
Colorado	none (funding determined annually by legislature) – no funds allocated in 2017–2018	2017–2018 – funds allocated for treatment access, SUD and MH treatment, prevention
D.C.	None identified	None identified
Illinois	“social equity applicant” for cannabis business offers extra points on application for those convicted of cannabis-related offense, or a person with strong ties to a community that has been disproportionately impacted by both poverty and cannabis drug law enforcement. Cannabis Business Development Fund: provides low-interest rate loans, outreach, job training and technical assistance. Restore, Reinvest, and Renew (R3) Program to directly address the impact of economic disinvestment, violence, and the historical overuse of criminal justice responses to community and individual needs by providing resources to support local design and control of community-based responses to these impacts.	Drug Treatment Fund for treatment, education, and prevention of substance misuse
Maine	None identified (92)	Revenue set-aside for purpose of an ongoing public awareness campaign to reduce youth cannabis, alcohol and tobacco consumption (92)
Massachusetts	Measures required to promote equity and diversity in the cannabis industry, including developing training programs to achieve meaningful participation by minorities, women, and veterans. The controlling applicants for cannabis business licenses may not have a felony conviction unless it was for an offense that solely involved cannabis and did not involve minors. “Social Justice Leader” are designations for businesses donating at least 1% of their revenue to the state’s social equity training and technical assistance fund and that conduct at least 50 hours of educational seminars targeted to residents in areas that had disproportionate cannabis enforcement;	Department of Public Health is to establish science-based public awareness campaigns to educate public about responsible use of cannabis, including about edibles and the danger of manufacturing cannabis products at home; and educate youth about cannabis, with the goal of reducing their use rates.
Michigan	None identified (11)	None identified (11)
Nevada	None identified (12)	None identified (12)
Oregon	In granting license to owner/employee in the cannabis industry, a single prior cannabis conviction for manufacture or delivery of cannabis cannot be considered.	Funds set aside for the establishment, operation, and maintenance of alcohol and drug abuse prevention, early intervention and treatment services.
Vermont	None identified	None identified
Washington	None identified	\$5000 for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by cannabis use; A cannabis use public health hotline that provides referrals to substance abuse treatment providers.

Not considered in these equity programs, however, is the destination of monies previously used to support cannabis prohibition. Billions of dollars have been used to support an extensive police, court, and prison system dedicated for this purpose (95). While this cost has significantly decreased in states with long-standing decriminalization, some states—as well as the federal government—continue to dedicate significant sums of money for cannabis prohibition. As cannabis legalization becomes the norm, it is hoped that a shared sense of social justice will serve to utilize these funds to support communities targeted by the drug war.

#### Recommendations:

- Jurisdictions should develop a plan to estimate the cost savings from the decrease in arrests, trials, and incarceration of cannabis-related offenses. Tax revenues generated from cannabis legalization *and* funds no longer needed to support cannabis prohibition should be specifically targeted to support efforts at restorative justice.
- The amount of funds to be contributed for these purposes should be specified and not left to the vagaries of legislative priorities and regulatory agencies.
- Efforts to support restorative justice should be monitored for effectiveness.

### **Potential consequences of legalized cannabis to marginalized populations**

The injustices of cannabis prohibition, particularly to people of color, is one of the prime justifications for cannabis legalization. Yet cannabis legalization comes with possible risks to these same populations. There is concern that the same issues that plague lower-income communities around other healthy behaviors might also be at play here.

The “iron law of prohibition” (based upon the Alchian–Allan Theorem of economics) posited that as law enforcement becomes more intense, the potency of illegal substances will increase, e.g. “the harder the enforcement, the harder the drugs” (96). This principle suggests that cannabis legalization would result in an overall decrease in tetrahydrocannabinol (THC) potency. This has not been the case. While cannabis legalization has resulted in the availability of less potent products like cannabidiol (CBD) and non-intoxicating methods of ingestion such as topicals, legalization has also increased availability of more potent cannabis flower as well as highly potent edibles and extracts [i.e. Vaporizable Cannabis Concentrates (VCCs), consumed through vape pens, e-joints, and dabbing] (97,98). When combined with a somewhat heightened

prevalence of cannabis use and use disorders in adult users following the implementation of medical cannabis (99), the negative consequences of cannabis in adults may be expected to rise.

Cannabis use can co-occur with psychotic, anxiety, major depressive, post-traumatic stress, major depressive and bipolar disorders (100–102), although a causal relationship remains uncertain (102–105). While cannabis has been reported to be helpful for some individuals with psychiatric disorders, substantial research suggests that, for those experiencing mental health symptoms, many experience a progression of their psychiatric symptoms [see review in (100)]. Cannabis use has also been associated with an increased risk of other substance use disorders (106) and cannabis use disorder is more common in those with psychiatric disorders (100).

There is a concern that cannabis dispensaries will be located in areas most at risk of psychiatric illness and substance use disorders (i.e. socioeconomically disadvantaged communities) and there is evidence that a positive association exists between the number of medical cannabis dispensaries and number of hospitalizations associated with cannabis use disorder (107). Alcohol and tobacco outlets have increased density in more disadvantaged communities; this heightened density of alcohol/tobacco outlets is associated with the likelihood of an individual living nearby having an alcohol or tobacco use disorder [see (39,100,108)].

Thus, those who most suffered from the consequences of cannabis prohibition may also be more likely to bear negative outcomes of cannabis legalization. Those of financial means can afford the lawyers and bail if arrested for cannabis use; they can also afford treatment of cannabis use disorder or worsening psychiatric illnesses if needed. And since many state psychiatric hospitals have downsized or closed over the past few decades in the U.S., many psychiatrically ill individuals—particularly vulnerable populations without easy access to psychiatric care—are now arrested and incarcerated (109).

There is a concern that, without the proper safeguards, cannabis legalization could contribute to an increase in unmet health needs, possibly resulting in incarceration for people in vulnerable communities. Efforts to avoid such an occurrence include earmarking sufficient cannabis-related tax revenue for prevention efforts (particularly in populations most at risk), education and programming around healthy behavior, and treatment for substance use and psychiatric disorders. While these approaches are occasionally included in ballot initiatives and/or

regulatory frameworks for cannabis revenues (Table 4), it is not yet known whether these efforts will be sufficient to avoid the potential downsides of cannabis legalization.

#### Recommendations:

- Sufficient tax revenues generated from cannabis legalization and funds no longer required to support cannabis prohibition should be used to target prevention and treatment efforts to lessen the negative consequences of cannabis use and to educate the public on safer use and harm reduction (Table 4).

### Final recommendations

This review offers several recommendations that we believe would both mitigate some of the past harms of cannabis prohibition as well as minimize future harms that may be posed by cannabis legalization [see also recommendations from Shaleen Title (48)]. We will end with some brief thoughts regarding more general issues that should frame future efforts to assure social justice in the cannabis legal environment.

- As the legalization of cannabis becomes more commonplace, some of the forces pushing for social justice have lessened their commitment to the cause and have left subsequent legalization efforts to the cannabis industry (110). Thus, we must be mindful that the concern for social justice that drove the initial push for legalization does not lose its momentum.
- “Pigouvian” taxes (taxes intended to correct an undesirable or inefficient market outcome, e.g., the societal cost of treating an increase in cannabis use disorders that may occur with legalization) should be set to equal the social cost of negative externalities (e.g., cannabis-generated revenues should be sufficient to offset the negative consequences of cannabis legalization). The amount of taxation should be driven by data, not based on assumptions related to alcohol and tobacco-related harms.
- To assure that disadvantaged communities that have borne the brunt of cannabis prohibition will benefit from its legalization, cannabis-generated revenues should be used to support data collection that track racial/ethnic disparities in arrest and conviction rates for cannabis-related offenses, licenses granted to various racial/ethnic groups, racial disparities in cannabis-related consequences (e.g., psychiatric

disorders), and funds provided for substance use prevention and treatment as well as restorative justice efforts.

- The legalization of cannabis will not remove the illicit market nor its illicit use (e.g., public consumption, underage use). Thus, penalties for these offenses will persist in a regulatory environment. The need to balance penalties for illicit cannabis use, cultivation, transport and dispensing to dissuade these behaviors while avoiding an overly punitive system will therefore remain an ongoing concern.

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Hello chairman Bentz and members of house health and human development committee. My name is Jacqueline Seifred. I was Born and raised in Delaware and live in sussex county . I am a business owner for over twenty years. I have singled handily raised a son and also a grandson who was abandoned by his parents due to the opioids epidemic . I watched it unfold as legal drugs were dispersed excessively to all ages. My sister died from her legal addiction and my only son just barely made it out of his alive. His saving grace thru withdraw and to be clean for nearly five years was because of the aid he received from this harmless plant. I became an advocate for legalization shortly after looking for supply of an illegal substance to calm his symptoms of a horrible withdraw. There is no just cause or reason why this plant remains a schedule one drug when in fact it is neither a drug or deadly. No one has ever died from it. Our biggest opposition comes from businesses worried about employees working under the influence when the fact is they already do. Our roads are not in anymore danger then that of which alcohol use has been and remains the main cause of deadly accidents . The fact is that this legalization should be the choice of each individual and be treated the same as alcohol. Please take the time to research and weigh it's pros and cons and realize the capital this state could benefit from the legalization as so many other surrounding states have. I've been a consumer since I was a teenager and became a successful, law abiding citizen and remember everything I have done the night before. Thank you for this time. Please vote yes to bill HB150