

STEPHANIE T. BOLDEN
STATE REPRESENTATIVE
Second District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

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House Revenue and Finance Committee Meeting Minutes
4.13.22

This committee meeting has been recorded and may be accessed via legis.delaware.gov

Chair Bolden called the meeting to order at 1:00 p.m. Members present included Vice-Chair Baumbach and Reps. Bennett, Dorsey Walker, Freel, Gray, Griffith, Ramone, Smith, Spiegelman, Williams, Wilson-Anton, and Yearick. Senator Sturgeon and Rep. Osienski were also present. For a list of guests present, please see the attendance list below.

Chair Bolden introduced Senate Bill 131 w/ SA 1, AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXATION OF PREMIUM CIGARS.

Chair Bolden invited Senator Sturgeon, sponsor of Senate Bill 131 w/ SA 1 to explain the legislation. Senator Sturgeon expressed that a house amendment will be introduced shortly that will change the effective date of the legislation to be January 1st as opposed to October 1st. She noted that it is important to do everything possible to help support locally owned Delaware small businesses as they compete with surrounding states such as Maryland, New Jersey, and Pennsylvania. Senator Sturgeon expressed that small businesses will be positively impacted by reducing the tax on premium cigars from 30 percent to 15 percent. She said that there are Delawareans driving into Pennsylvania and Maryland to avoid the 30 percent cigar premiums. Senator Sturgeon noted that Pennsylvania has no premium cigar tax and Maryland has a 15 percent tax. Senator Sturgeon stated that she understands the concept of using taxation as a method to deter individuals from using tobacco but noted that cigars, in particular, are a luxury item used on special occasions. She expressed that she would not be in support of lowering taxes on tobacco products abused by teenagers or products that cause lifelong addictions.

Senator Sturgeon said to ensure that the reduction in tax only applies to special use items, the legislation includes the definition of a luxury cigar. Senator Sturgeon stated it is important to allow Delaware small businesses to sell premium cigars at a competitive price.

Rep. Baumbach expressed that he was conflicted on this issue. He noted that raising taxes on tobacco products is good health and fiscal policy but is mindful of other markets for premium cigars across Delaware's border which can lead to a loss of revenue for local businesses. Rep. Baumbach stated that he is looking forward to hearing testimony on this legislation. Rep. Baumbach also asked about the fiscal notes regarding the implementation of SB 131 w/ SA 1. Sen. Sturgeon responded saying that there will be a state revenue loss of \$407,073 in Fiscal Year (FY) 2022, \$627,207 in FY 2023, and \$644,255 in FY 2024. Rep. Baumbach asked the sponsor what vegetable gum is. An expert responded stating that vegetable gum is a natural adhesive used to cap the cigar.

Rep. Griffith expressed that she was interested in hearing testimony on SB 131 w/ SA 1 but does have concerns about tobacco use in general.

Rep. Smith noted that he did have public health concerns regarding this legislation. He also asked if this legislation was initiated by any businesses. Senator Sturgeon responded stating that she believes that since the cigars are legal, they should not be taxed to the point where people can't afford the product. Senator Sturgeon reiterated that unlike vapes and cigarettes, premium cigars are a luxury expensive item used on special occasions.

Rep. Smith asked Senator Sturgeon what the current premium tobacco sales are now compared to where they would be projected to be if the tax was reduced to 15 percent. Chair Bolden invited Scott Zucca, CLTS Inc. to testify in response to Rep. Smith's question. Mr. Zucca said the data assumes based on the fiscal note there will be a flat consumption and no projection in sales. Rep. Smith responded to Mr. Zucca stating that Delaware would see increased sales if the tax on premium cigars is lowered. Mr. Zucca explained that Pennsylvania has zero tax on premium cigars.

Rep. Yearick noted that the general assembly raised the tax on premium cigars to 30 percent in 2015. He asked what the numbers were on sales on premium cigars in 2016 compared to current sales. Mr. Zucca responded by stating that when the taxes were raised in Delaware, he was forced to close two stores. Rep. Yearick asked Mr. Zucca about the trends in premium cigar utilization. Mr. Zucca responded noting that premium cigars is a growing industry throughout the country and expressed that he thinks there is a good chance that by lowering the tax there could be an increase in revenue. Rep. Yearick stated by lowering the tax there will hopefully be additional revenue from byproducts of people purchasing additional tobacco products in Delaware.

Rep. Ramone stated that he supports the bill. He also emphasized his commitment to protecting the health of adolescents. He expressed that it should be made illegal for a child to smoke cigarettes. Rep. Ramone stated that he fully understands the effect that Delaware's geography has on certain small businesses' ability to survive. He also referred back to the gas tax, where Delaware decided not to raise the tax and the state's income exponentially increased every year until COVID-19 hit. Rep. Ramone expressed that this legislation would allow small businesses in Delaware to remain economically competitive and help to increase cigar sales in Delaware. He also explained that this bill could even lower the quantitative amount of people using cigars because if people go to Pennsylvania where there is no tax, people may buy more cigars than they would in Delaware. Rep. Ramone said that people may not smoke cigars as frequently if they have the ability to purchase at a local store.

Senator Sturgeon noted that the age for purchasing tobacco products in Delaware has been raised to 21.

Chair Bolden opened the floor for public comment.

Aleks Casper, Director of Advocacy at the American Lung Association stated that her organization strongly opposes this legislation. She noted that tobacco is the number one cause of preventable death. Ms. Casper stated that by lowering the price of premium cigars, tobacco becomes more accessible as the price point becomes more appealing. She explained that cigars have the same effects as cigarettes and are not safe even in casual use.

Chris DiPietro, Campaign for Tobacco for Kids noted that in 2017 the General Assembly raised this tax on premium cigars from 15 percent to 30 percent. Mr. DiPietro noted that when you increase the tax on tobacco products, there is less consumption. He stated that taxation of tobacco products is a health policy.

Joshua Habursky, Premium Cigar Association stated the organization's support of SB 131 w/SA 1. He said that premium handmade cigars are niche products that do not carry the same implications of other tobacco products. Mr. Habursky also commented on the legislation's fiscal notes and expressed that he believes Delaware will capture more than \$600,000 in revenue from lowering the tax.

Steve Zengal from Los Gildos, Inc is supportive of this legislation. Mr. Zengal said this bill will allow Delaware to keep its premium cigar revenues at home.

Fred Gatto of the Delaware Division of Public Health (DPH) strongly opposes SB 131 w/SA 1. He noted that tobacco is the number one cause of preventable death. Mr. Gatto explained that despite the infrequent use of premium cigars, it does not negate the harmful effects of tobacco such as the increased risks for certain cancers and heart disease.

Austin Chrisman stated that he is a small business owner in Delaware and is in support of the legislation.

Jamie Johnstone, Delaware Department of Finance commented that this bill is not included in the Governor's recommended budget.

Joseph Bankston, General Manager, Division of Premium Cigars TLTO Delaware Cigars stated that he has been in the premium cigar industry for eight years and is in support of this legislation.

Kimberly Homes of Bay Health Medical Center and President of the American Heart Association voiced her opposition to the bill. Ms. Homes expressed that sales of cigars have been on the rise, particularly among young people. She noted cigars are harmful, addictive, and deadly.

Michael Wirtshaffer stated that people do not inhale cigar smoke and it is not as addictive as other tobacco products. Mr. Wirtshaffer expressed that premium cigars are not marketed to young people and the health risks are much lower than other tobacco products.

Rep. Ramone commented that the tax increase happened in 2017 to help offset the previous deficit. Rep. Ramone also stated that taxing tobacco products helps to lower usage rates. He suggested that taxes are irrelevant to the increased usage of premium cigars citing that there was a 115 percent increase in 2020 after the Delaware General Assembly raised the tax to 30 percent. Rep. Ramone said the taxes are relevant if consumers are purchasing premium cigars in Delaware or a nearby state. Rep. Ramone expressed that he believes the best way to deter people from using tobacco is by making the product illegal. He stated that he felt that it was disingenuous to hear organizations like the American Lung Association and Campaign for Tobacco-Free Kids express opposition to this legislation when the groups would not support an initiative to make it illegal for children to smoke tobacco products even if it is not penal. Rep. Ramone expressed that small businesses have been suffering in Delaware throughout the pandemic and the state is projected to end the FY with a one-billion-dollar surplus. He noted this revenue is a .05 of the FY surplus that Delaware is not willing to give back to businesses. Rep. Ramone stated that he believes that lowering the tax on premium cigars would help generate additional revenue for the State of Delaware because the volume of sales would increase.

Chair Bolden expressed that she will be abstaining from voting on SB 131 w/SA 1. She recalled the legislation that was passed making it illegal to smoke cigarettes in public places under Governor Miner's administration. Chair Bolden said that legislation made many people upset, but it worked. Chair Bolden stated that she also worked on legislation that extended the number of hours liquor stores could be opened on Sundays. She explained that she is aware that these tobacco products are used as blunts, which can contain illicit substances such as fentanyl. She also expressed concern about secondhand smoke. Chair Bolden explained that she understands the rationale behind lowering the tax to support small businesses.

Rep. Smith expressed that he will be voting to release SB 131 w/SA 1 from committee based on compelling testimony on the human behavior of premium cigar use.

A motion was made by Rep. Speigleman and seconded by Rep. Ramone to release Senate Bill 131 w/SA 1 from committee; motion carried. Yes= (10), Bennett, Dorsey Walker, Wilson-Anton, Freel, Gray, Ramone, Smith, Spiegelman, Yearick and Williams; No= (2) Reps. Baumbach and Reps. Griffith; Absent= (0); Abstain= (1) Chair Bolden. The bill was released from committee with an F=2, M=7, U=0 vote.

Rep. Spiegelman provided a brief statement before the next bill. He expressed that he would not be voting on House Bill 372 or taking part in the debate citing a conflict of interest.

Chair Bolden introduced **House Bill 372, AN ACT TO AMEND TITLES 4, 11, 16, AND 30 OF THE DELAWARE CODE RELATING TO CREATION OF THE DELAWARE MARIJUANA CONTROL ACT.**

Chair Bolden invited Rep. Osienski, sponsor of House Bill 372 to explain the legislation. Rep. Osienski explained that HB 372 creates the legal framework to license and regulate a new industry, recreational marijuana, that will create well-paying jobs for Delawareans. He stated the legislation allows for the creation of 30 retail licenses, 30 manufacturing licenses, 60 cultivation licenses and five testing licenses to be issued within 16 months of the bill's effective date. Rep. Osienski said the bill would establish a competitive licensing process. He noted that the bill includes other provisions to give social equity applicants and micro-business applicants a leg up to be competing with big multi-state operators, such as discount fees, waivers, and technical assistance. Delaware will establish a marijuana tax that is set at the point of sale at 15 percent, which Rep. Osienski said is comparable with tax rates in the region

and will keep prices competitive with the existing illegal market. Rep. Osienski stated that HB 372 creates a Justice Reinvestment Fund, which will be used to ensure that the communities that were most negatively impacted by prohibition will be the beneficiaries of this new industry. The fund will receive seven percent of the marijuana tax revenue and will be used by the Department of Justice to administer grants, contract services and initiatives focused on restorative justice, jail diversion, workforce development, industry-specific technical assistance, and monitoring services for economically disadvantaged persons. Rep. Osienski stated that this fund can also be used on statewide programs designed to develop or create technology to assist with the restoration of certain rights, the expungement of criminal records, addressing the underlying causes of crime, reducing drug-related arrests, and reducing the prison population. Rep. Osienski expressed that House Bill 372 created a special license pool for Delaware-owned marijuana micro-businesses. He explained the enforcement will be handled by the Division of Alcohol and Tobacco Enforcement in a new office called the Marijuana Control Commission. Rep. Osienski said this bill would not change any existing state law regarding driving under the influence and will not allow individuals to grow marijuana plants. Rep. Osienski expressed that HB 372 would not change employer enforcement and foreigners would be permitted to drug test marijuana.

Rep. Smith noted that he got questions from medical marijuana patients who feel like they are not being prioritized in this legislation. In addition, he expressed that medical marijuana providers feel that they should have a random exclusion on testing since they are already serving the community. Rep. Osienski said that this bill does not address the medical marijuana program, which is overseen by the Department of Health and Social Services (DHSS). He stated that House Bill 372 is overseen by public safety. Rep. Osienski said there could be future legislation that would help the medical marijuana program in Delaware. Rep. Osienski addressed the compassion centers, stating that existing business owners have 16 months to apply for application licenses to have a head start on making investments and preparing the infrastructure. He noted that this would be a huge and unfair advantage for current compassion centers, which is why no grandfather clause was included in this legislation.

Rep. Smith stated that medical marijuana patients feel like they are not being served properly. He expressed the need to collaborate with other representatives to work on fixing this policy issue. Rep. Osienski stated that he is a strong supporter of medical marijuana and believes it is important to fix any programming issues affecting patients.

Rep. Smith added that state regulation concerns exist since marijuana is not federally regulated. Rep. Smith commented that he heard from other representatives and community members about direct revenue toward substance abuse and treatment. Rep. Smith asked if revenue from taxing marijuana could be used towards substance abuse and treatment. Rep. Osienski responded that 93 percent of the revenues would go to the general funds, which include any programs that are funded by the typical legislative process. He added that seven percent of the revenues go to the Justice Reinvestment Fund, which will be used to address issues that were disproportionately affected by a prohibition. He noted that substance abuse and treatment could fall under that category. Rep. Osienski stated that 93 percent of revenues from the marijuana tax will go through JFC and the remaining seven percent will be handled by the Attorney General's Office.

Rep. Yearick asked if a municipality can approve or disapprove a retail facility in their jurisdiction. Rep. Osienski said that there is local control and pointed to lines 902 through 905, which states a “municipality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores through the enactment of an ordinance or through an initiative to referred measure”. In addition, in lines 906 to 909 which states that a “municipality or county may enact ordinances or regulations that are in conflict with this chapter or in conflict with regulations enacted under this chapter, governing the time, place, manner, and number of marijuana establishments and operations. A municipality or county may establish civil penalties for violation of an ordinance”. Rep. Yearick asked the sponsor if there is any distance requirement on marijuana establishments. Rep. Osienski responded that there are distance requirements on marijuana establishments and the language used in HB 372 comes from the alcohol guidelines, which address churches, schools, colleges, and substance abuse facilities.

Rep. Yearick asked for the reason why home growing marijuana is not permitted in this bill. Rep. Osienski said that he heard from advocates that they wanted a provision allowing for home growing but did not include the provision as a strategy to receive the necessary 25 votes required to enact the legislation. Rep. Osienski added that he would like to see home growing available first for medical marijuana patients.

Rep. Yearick asked about the fiscal note regarding projections for staff for HB 372. Chair Bolden invited Jason Smith, Controller General's Office to address Rep. Yearick's question. Mr. Smith stated that there is a projected one-time cost of \$1,688,971 and a general fund cost of \$2,143,916 in the FY 2023. Rep. Osienski added that there have been some estimates that the new industry could produce revenues of twenty to thirty million dollars.

Rep. Yearick commented that medical marijuana was legalized in 2011 in the State of Delaware but took around five years for the product to be available in retail stores. Rep. Yearick asked about the timeline for policy implementation of HB 372. Rep. Osienski responded stating that once this legislation is signed into law the commissioner would start propagating regulations, which are projected to be available in thirteen to fourteen months. Afterward, Delaware will be able to start accepting and issuing applications. He stated that retail establishments are the last to receive licenses. Rep. Osienski noted that it could be another legislative session before this bill has wide impacts. Rep. Osienski added that New Jersey's recreational marijuana industry is expected to be up and running in a couple of months.

Rep. Smith asked Rep. Osienski when New Jersey passed legislation to legalize marijuana. Rep. Osienski responded that he did not know the answer. Rep. Smith commented that he has heard from colleagues in other states about the need to provide additional funding to hospitals for emergency care services. He expressed that sometimes individuals consume too much marijuana and end up in the emergency room. Rep. Smith said that he supports the legalization of marijuana but expressed that there has been some disagreement on the taxation component of this legislation. Rep. Smith stated that his uncle died from a heroin overdose but does not believe marijuana had an impact on his uncle's death. However, Rep. Smith noted that Delaware does not have enough rooms and help for substance abuse patients.

Rep. Smith stated that he will be reintroducing the medical marijuana overdose bill. Rep. Osienski expressed that he agreed with Rep. Smith stating that legalizing marijuana has been an evolving process throughout all states. Rep. Osienski said that the team that is working with him on crafting this bill is watching and learning from states like Colorado and Washington who passed this legislation a decade ago. Rep. Osienski noted that one of the lessons learned was the need to have very strict packaging requirements on products to give the consumer a lot of information on how to properly consume the product. Rep. Osienski commented that these illicit markets typically sell stronger drugs along with cannabis. Rep. Osienski compared cannabis prohibition to alcohol prohibition stating that speakeasies also were involved in gambling and prostitution. Rep. Osienski stated that the cannabis prohibition is harmful, and it is important to end this illegal market and regulate cannabis. Rep. Smith said that prescription pills were the primary gateway to the opioid epidemic.

Rep. Dorsey Walker noted that questions about medical marijuana have been addressed in the joint legislative sunset committee.

Rep. Baumbach said that he is reminded of concerns that were brought up several years ago regarding the legalization of cannabis including youth access, gateway drugs, and drug enforcement. He stated that he believes this legislation addresses all three of these issues. Rep. Baumbach noted that cannabis will not be a gateway drug if it is legalized, regulated, and taxed. Rep. Baumbach expressed his support for this legislation.

Rep. Ramone said that he was extremely disappointed when he learned that in the House Health & Human Development Committee, neither the public nor the legislators were allowed to comment on House Bill 361. He expressed his concerns over the integrity of what occurred because not allowing the public nor legislators to speak on the legislation is against House rules.

Rep. Ramone expressed concerns about legalizing marijuana in Delaware, because the drug is still prohibited at the federal level. Rep. Osienski stated that he did add language in the legislation stating that if the federal law were to be change regarding marijuana, the commissioner is responsible for reviewing the changes and bringing back their findings to the General Assembly. Rep. Ramone also expressed concerns on if HB 371 passes, but HB 372 does not given that the bills are related to one another. Rep. Osienski responded by stating that if legalization passes and HB 372 doesn't then there are no more civil penalties for personal use, but it will still be illegal to consume in public, be possessed under 21, or drive impaired. Rep. Ramone stated that taxing marijuana will keep the illicit marijuana market active. In addition, Rep. Ramone noted that there are a ton of issues regarding medical marijuana distribution that he would like to address in the General Assembly.

Rep. Ramone asked if HB 372 has any effect on the hemp industry. Rep. Osienski stated that HB 372 does not affect the hemp industry but did implement suggested language from the Department of Agriculture. Rep. Osienski noted concerns of cross-pollination, which is why the Department of Agriculture must review all outdoor and indoor cultivation licenses.

Rep. Ramone asked which levels of cannabis production have taxes. Rep. Osienski responded stating taxes are placed only at the point of sale at the retail level. Rep. Ramone confirmed that from seed to sale is all internal to the State of Delaware.

Rep. Bolden confirmed that municipalities could have ordinances to regulate hours, locations, etc. Rep. Bolden asked if this policy is also included in HB 371. Rep. Osienski stated that HB 371 removes penalties of personal possession and does not include any information regarding municipalities.

Rep. Gray stated that his community anticipates additional costs for the police force to manage this legislation. Rep. Gray asked if municipalities could receive funding to offset these additional costs. Rep. Osienski stated the legislation did not carve out any funding for municipalities and expressed that crime could even drop. Rep. Osienski noted that when it comes to impaired driving, any impairment, including cannabis is illegal. He noted that all training costs, testing costs, and response time is paid by the Office of Highway Safety. Rep. Osienski stated that if municipalities do see an uptick in costs the general assembly can look into that.

Chair Bolden opened the floor for public comment.

Andrea Brown Clark, Poor People's Campaign supports this legislation. She noted how prohibition disproportionately affects certain communities.

Lizzie Golob stated that she is a retired teacher and cannabis consumer and supports HB 372. She said the legalization of cannabis would bring jobs to Delaware and boost the state's economy.

Emilio Nazario, veteran, and former educator supports legalizing cannabis for people twenty-one and older. He expressed that he does not believe people should be criminalized for consuming cannabis.

Jeffrey Rose explained that cannabis will be beneficial for small businesses and communities. He expressed frustration with being pulled over by the police as a card carrier.

Cape Petchell, Executive Director, and Co-Founder of Delaware Cannabis Advocacy Network stated her support for HB 372.

Olivia Nough, Senior Policy Analyst at Marijuana Policy Project stated her support for HB 372. She noted that this legislation provides regulations for quality control including that products are accurately labeled for potency. Ms. Nough stated that this new industry will create jobs and economic opportunities in Delaware.

Nikko Brady of the Delaware Department of Agriculture strongly encourages that marijuana is grown in indoor facilities with adequate security measures in place. Ms. Brady noted that in the past outdoor growing sites for licensed Delaware hemp producers have received violent threats and theft of crops where individuals have mistaken the crop to be marijuana.

Kiki Evinger, Chief Policy Advisor at the Department of Health and Social Services brought up concerns with the licensure fee. Ms. Evinger stated HB 372 establishes a low licensure fee compared to Delaware's medical marijuana program. She expressed concern that there will be a shift from medical marijuana production to recreational given the difference in costs. Ms. Evinger said that the Department recommends increasing the recreational marijuana license fee to 20,000 or 30,000 dollars, with the understanding the product will be taxed, unlike medical marijuana. Ms. Evinger also expressed concerns over the legislation allowing outdoor cultivation. She stated that outdoor cultivation proposes potential health and safety risks. The department recommends removing references to outdoor cultivation in HB 372 as it puts products at risk for contamination by insects, wildlife, pesticides, and other contaminants. Ms.

Evinger explained the Department recommends that part of the revenue collected from taxation be utilized in supporting Delaware's behavioral health systems.

Jamie Johnstone, Deputy Principal Assistant, Delaware Department of Finance, stated the Act does not provide the Department access to the marijuana regulation fund to cover administrative costs and expenses. Mr. Johnstone said HB 372 will require future general fund appropriations, which will compete with other departmental priorities. He noted how HB 372 does not and cannot address the Department's major concerns with cash transactions and associated crime. He explained that as long as marijuana is a federally designated scheduled drug, federal banking and money laundering laws will make it difficult and costly for retailers to open bank accounts and access basic banking functions. Mr. Johnstone stated that it is estimated that forty to sixty percent of tax payments are made with cash. Mr. Johnstone said that large amounts of cash on-site or in transit significantly increase the risk of crime. He explained that without federal clarity on the treatment of marijuana-related businesses, the recreation market created by this act will create a cash business.

Michael Wirtsehafter said that he is a veteran, an advocate for weed, and an entrepreneur. Mr. Wirtsehafter stated his support for HB 372.

Laura Sharer, Executive Director, Delaware NORML expressed support for HB 372.

Lincy Baffone stated her support for HB 372.

Fred Calhoun expressed that alcohol and cigarettes products are the top products used by youth today. Mr. Calhoun offered to answer any questions from representatives on how to get a marijuana facility up and running.

Javonne Rich, Policy and Advocacy Director of the ACLU stated the organization's support of this legislation. Ms. Rich stated that Black Delawareans are over four times more likely than white people to be arrested for cannabis use, even though black and white people use cannabis at the same rate.

Lincoln Willis of the Delaware League of Local Government opposes this legislation. Mr. Willis expressed that HB 372 will result in increased costs to local governments and recommends distributing three percent of the tax revenue to local jurisdictions.

John Sybert stated that marijuana use does not lead to harder drugs.

Reverend Dr. Lyle Dykstra, representative of the Poor People's Campaign and the Coalition to Dismantle the New Jim Crow expressed support for HB 372.

Roger Green MD stated that he is a retired pediatrician and supports the legalization of cannabis and HB 372.

Jacqueline Lacy expressed support for HB 372.

John Yeomans, Director of the Division of Alcohol and Tobacco Enforcement expressed concern over lines 555 and 558 of the bill that references providing training for industry employees around identifying valid identification cards. Mr. Yeomans stated they would like to see a broader training program similar to the alcohol industry. He stated that individuals who undergo this training in the alcohol industry obtain a certification around the effects of alcohol over service, DUI, and other items in terms of seeking compliance. Mr. Yeomans said these programs can apply to the cannabis industry to ensure proper service.

Kimberly Chesser, Director of the Delaware Office of Highway Safety expressed concerns about DUI enforcement. Ms. Chesser expressed the Department recommends the increase of training and resources for enforcement of drug-impaired driving. She said additional DRE is necessary with the passage of this legislation. She explained that DREs are a limited resource, yet their best tool for determining drug impairment roadside. Ms. Chesser stated that DRE program costs are funded through the federal highway safety grants, but those costs have grown significantly. Ms. Chesser recommended additional funding for the Department.

Stacey Bock expressed support for HB 372.

Rep. Bolden asked Rep. Osienski to address the concerns from organizations on outdoor cultivation. Rep. Osienski said the reason why this legislation allows businesses the opportunity for outdoor cultivation is that one of the highest costs of marijuana cultivation is the energy bills needed to light the facilities. He expressed outdoor cultivation uses the energy of the sun, which would decrease costs for businesses. Rep. Osienski stated the same testing is required for both outdoor and indoor cultivation in HB 372. Rep. Osienski noted that the legislation has strict requirements for security such as security cameras and fencing.

Rep. Bolden expressed her support for this legislation because the municipalities have the option of where marijuana establishments are located. Rep. Bolden noted that she wants to ensure that no dispensaries are located near schools, churches, residents, or colleges.

Rep Smith confirmed that amendment 7 of the original marijuana bill introduced this year was addressed in this legislation.

A motion was made by Rep. Wilson-Anton and seconded by Rep. Williams to release House Bill 372 from committee; motion carried. Yes= (9) Chair Bolden, Vice-Chair Baumbach, and Reps. Bennett, Dorsey Walker, Griffith, Wilson-Anton, Williams, Smith, and Freel; No= (3) Reps. Gray, Ramone and Yearick; Absent= (0); Abstain =(1) Spiegelman . The bill was released from committee with a F=7, M=1, U= 0 vote.

Chair Bolden adjourned the meeting at 3:18 p.m.

Respectfully submitted by:

Rachel Widom, Legislative Fellow

Attendance List

- Aleks Casper, Director of Advocacy at the American Lung Association
- Andrea Brown Clark, Poor People's Campaign
- Ashley Wong
- Austin Chrisman
- Cape Petchell, Executive Director and Co-Founder, Delaware Cannabis Advocacy Network
- Chris DiPietro, Campaign for Tobacco for Kids
- Emilio Nazario
- Fred Calhoun
- Fred Gatto of the Delaware Division of Public Health (DPH)
- Jacqueline Lacy
- Jamie Johnstone, Delaware Department of Finance
- Javonne Rich, Policy and Advocacy Director of the ACLU
- Jeffrey Rose
- John Sybert
- John Yeomans, Director of the Division of Alcohol and Tobacco Enforcement
- Joseph Bankston, General Manager, Division of Premium Cigars TLTO Delaware Cigars
- Joshua Habursky of Premium Cigar Association
- Kiki Evinger, Chief Policy Advisor, Department of Health and Social Services
- Kimberly Chesser, Director of the Delaware Office of Highway Safety
- Kimberly Homes, President, American Heart Association
- Laura Sharer, Executive Director, Delaware NORML
- Lincoln Willis of the Delaware League of Local Government
- Lincy Baffone
- Lizzie Golob
- Michael Wirtshaffer

- Nikko Brady, Delaware Department of Agriculture
- Olivia Nough, Senior Policy Analyst, Marijuana Policy Project
- Reverend Dr. Lyle Dykstra, Representative, Poor People's Campaign and the Coalition to Dismantle the New Jim Crow
- Roger Green MD
- Sal Pantano
- Stacey Bock
- Steve Zengal, Los Gildos, Inc

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Public Comment

1. *SB 131 w/SA 1, (Sponsor: Senator Sturgeon) Submitted by Joseph Bankston | April 13, 2022, at 12:59 PM*
2. *SB 131 w/SA 1, (Sponsor: Senator Sturgeon) Submitted by Jocelyn Collins | April 13, 2022, at 12:34 PM*
3. *SB 131 w/SA 1, (Sponsor: Senator Sturgeon) Submitted by Megan Tucket | April 13, 2022, at 12:11 PM*
4. *SB 131 w/SA 1, (Sponsor: Senator Sturgeon) Submitted by Steve Zengel | April 13, 2022, at 10:03 AM*
5. *SB 131 w/SA 1, (Sponsor: Senator Sturgeon) Submitted by Joshua Habursky | April 12, 2022, at 3:40 PM*
6. *SB 131 w/SA 1, (Sponsor: Senator Sturgeon) Submitted by Aleks Casper | April 12, 2022, at 8:35 AM*
7. *HB 372, (Sponsor: Rep. Osienski) Submitted by Ngiste Abebe | April 13, 2022, at 7:05 PM*
8. *HB 372, (Sponsor: Rep. Osienski) Submitted by Lincoln Willis | April 13, 2022, at 3:14 PM*
9. *HB 372, (Sponsor: Rep. Osienski) Submitted by Roger Green | April 13, 2022, at 1:50 PM*
10. *Hb 372, (Sponsor: Rep. Osienski) Submitted by Kimberly Chandler | April 13, 2022, at 1:04 PM*
11. *HB 372, (Sponsor: Rep. Osienski) Submitted by Mark Jacobs | April 13, 2022, at 11:24 AM*
12. *HB 372, (Sponsor: Rep. Osienski) Submitted by Lizzie Golob | April 12, 2022, at 9:16 PM*
13. *HB 372, (Sponsor: Rep. Osienski) Submitted by Olivia Naugle | April 12, 2022, at 5:49 PM*
14. *HB 372, (Sponsor: Rep. Osienski) Submitted by Moria Donoghue | April 12, 2022, at 5:02 PM*
15. *HB 372, (Sponsor: Rep. Osienski) Submitted by Esi Mathis | April 12, 2022, at 4:44 PM*
16. *HB 372, (Sponsor: Rep. Osienski) Submitted by Roger Green | April 12, 2022, at 1:41 PM*
17. *HB 372, (Sponsor: Rep. Osienski) Submitted by Jax James | April 11, 2022, at 4:33 PM*
18. *HB 372, (Sponsor: Rep. Osienski) Submitted by Shannon McCleary | April 11, 2022, at 8:35 AM*

My name is Joseph Bankston and I am General Manager for the Premium Cigars Division of CLTS/Delaware Cigars. I have been employed in the Premium Cigars industry for the past eight years. During my time as General Manager for CLTS, we have expended countless resources in order to build a successful Premium Cigars business. Up until and through most of 2017, our business experienced steady growth in both revenue and customer base. We operated 25 stores in the region at that time.

In September of 2017 when the other tobacco products tax rate increased from 15 to 30%, we eventually had to make the hard decision to close three of our stores and to make cuts in staffing and activities that had until that point helped us grow our business. For example, on a yearly basis we funded and hosted the Delaware Cigar Festival at Delaware Park in Wilmington. This festival grew to the point that by 2016 it was widely known as a yearly “must attend” for Premium Cigar lovers across the country. We spent a minimum of \$40000 yearly with Delaware Park and associated vendors such as the Sheridan for facilities, hotels, food and beverages. Additionally over 400 attendees and vendors generated a large impact on the local economy, as most attendees stayed in the area for several days. In 2017 when the tax increase occurred, we could no longer find a way to continue to host the festival in a financially feasible manner.

Since 2017, we have lost much of our competitive edge in the Delaware region. Pennsylvania has no Premium Cigars tax and Maryland has a 15% tax. Our customers found that they could buy the same cigars just across the state line in those two states for a better price. Our pricing had to reflect the additional 15% tax and for many items this significantly impacted the

sales volume. We had to decrease our margins in order to try to remain competitive and this began the previously mentioned cycles of staffing and employee hours reductions.

It is our hope that the passage of this bill will help us return to the growth our business was experiencing prior to the 2017 tax increase. Thank you for your time.



April 13, 2022

TO: The Honorable Stephanie T. Bolden, Chair
The Honorable Paul S. Baumbach, Vice-Chair
Members of the House Revenue and Finance Committee
Legislative Hall
411 Legislative Avenue
Dover, DE 19901

FROM: Jocelyn I. Collins, Delaware, Maryland, & Washington, D.C. Government
Relations Director
American Cancer Society Cancer Action Network
655 15th St. NW, Suite 503
Washington, DC 20005
jocelyn.collins@cancer.org
(301) 254-0072 (cell)

SUBJECT: SB 131 w/SA 1 AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE
RELATING TO TAXATION OF PREMIUM CIGARS.

POSITION: OPPOSE

Dear Chair Bolden, Vice-Chair Baumbach, and Members of the House Revenue and Finance Committee:

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government. We are focused on the needs of patients and ensuring that people have access to the care they need to prevent, detect and fight cancer and to maximize the quality of their lives.

ACS CAN advocates for public policies that reduce the death and suffering from cancer including policies targeted at reducing tobacco use and exposure to secondhand smoke. Therefore, ACS CAN **OPPOSES** SB 131 w/SA 1, in which, seeks to create a separate category for premium cigars where none exists and lowers the tax on these products from their current rate of 30% to 15%.

Regular cigar smoking increases the risk of cancers of the lung, oral cavity, larynx, and esophagus. In fact, cigar smokers are four to ten times more likely to die from laryngeal, oral, or esophageal cancers than people who do not smoke. Heavy cigar smoking also increases the risk of developing lung diseases, such as emphysema and chronic bronchitis. Cigars also produce secondhand smoke that is dangerous for people who do not smoke.

All tobacco products, including cigars, contain nicotine, which may induce dependence and harm health.

Regulation of cigars is part of ACS CAN's comprehensive approach to reducing tobacco use and exposure to secondhand smoke in the United States. Like all other tobacco products, cigars should be subject to taxation as well as manufacturing and marketing rules to reduce the deadly and costly burden of tobacco use. All cigars, regardless of size, must be taxed at rates equivalent to cigarettes.

The U.S. Food and Drug Administration concluded that "all cigars pose serious negative health risks" and that "all cigar use is harmful and potentially addictive."¹ Each year, about 9,000 Americans die prematurely from regular cigar use.² Cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.³ According to the National Cancer Institute's Monograph No. 9, smoking cigars causes serious health consequences.⁴

Cigar smoking is a public health concern as it harms health. Cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke. Cigar use increases health risks compared to those who do not use tobacco at all. Cigar smoking causes cancer of the oral cavity, larynx, esophagus and lung. Daily cigar smokers have an increased risk of heart disease and chronic obstructive pulmonary disease (COPD). Cigar smokers are also at increased risk for an aortic aneurysm.⁵

All cigar smokers, whether they inhale or not, expose their lips, tongue and throat to smoke and its toxic and cancer-causing chemicals.⁶ Cigar smokers absorb smoke into their lungs and bloodstream, and deposit tobacco smoke particles in their lungs as well as their stomachs and digestive tract.⁷

Consumption of cigars is rising. Although cigarette smoking has declined, total consumption of cigars in the United States has increased dramatically since 1993, reversing a decline in consumption that had persisted for most of the twentieth century.⁸ Between 2000 and 2017, cigar consumption increased by 116 percent while cigarette consumption declined by 43 percent.⁹

¹ 81 Federal Register 29020, 29022 (May 10, 2016).

² Nonnemaker, J, et al., "Mortality and Economic Costs from Regular Cigar use in the United States, 2010," American Journal of Public Health 104(9):e-86-91, September 2014.

³ NCI, Cigars: Health Effects and Trends, 1998. Chang, CM, et al., "Systematic review of cigar smoking and all cause and smoking related mortality," BMC Public Health, doi 10.1186/s12889-015-1617-5, 2015.

⁴ NCI, Cigars: Health Effects and Trends, 1998. See also, Baker, F, et al., "Health Risks Associated with Cigar Smoking," Journal of the American Medical Association 284(6):735-740, 2000.

⁵ NCI, Cigars: Health Effects and Trends, 1998.

⁶ NCI, Cigars: Health Effects and Trends, 1998.

⁷ See, e.g., Rodriguez, J, et al., "The Association of Pipe and Cigar Use with Cotinine Levels, Lung Function, and Airflow Obstruction: A Cross-sectional Study," *Annals of Internal Medicine* 152:201-210, 2010; McDonald, LJ, et al., "Deposition of Cigar Smoke Particles in the Lung: Evaluation with Ventilation Scan Using ^{99m}Tc-Labeled Sulfur Colloid Particles," *Journal of Nuclear Medicine* 43:1591-1595, 2002.

⁸ National Cancer Institute (NCI), Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9, 1998, http://cancercontrol.cancer.gov/Brp/tcrb/monographs/9/m9_complete.pdf. Economic Research Service, U.S. Department of Agriculture (USDA). U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics.

⁹ TTB, Tobacco Statistics.

Nationwide in 2021, 5.4% of high school students currently smoke cigars.¹⁰ In addition, 3.5% of adults reported current cigar use in 2020, with the highest prevalence among 25-34 year olds (5.0%) and the lowest prevalence among those 65 years and older (1.8%).¹¹ Unfortunately, many mistakenly believe that cigars are not harmful, but cigars are addictive and harmful.

Young people are using cigars. Among youth in the United States, while cigarette smoking has declined rapidly, particularly in the last five years, cigar smoking has declined much more slowly. Importantly, cigar smoking is not limited to adults.

In states such as Delaware, cigar smoking is the second most popular product of choice among some populations. In Delaware: 16.5% of adults and 6.2% of high school students smoke¹², 13.6% of high school students use e-cigarettes in the last 30 days, 4.8% of high school students use cigarettes, 3.5% of high school students in Delaware use chewing tobacco, and 7.3% of high school students in Delaware smoked cigars, cigarillos or little cigars at least one day in the past 30 days¹³. While the cigar prevalence rate is 4.5% for adults.¹⁴

We know that increasing the price of tobacco through taxes increases are one of the most effective ways to reduce smoking. Reducing or eliminating any tax on tobacco makes them more appealing to price-sensitive consumers, including youth. Cigars, cigarillos and little cigars may be sold as individual sticks, which can again, make them more appealing to youth. While many cigar manufacturers regularly manipulate their products to evade taxation and other tobacco control regulations.

Smoking has a monetary cost placed on the State of Delaware. The annual health care costs to Delaware directly caused by smoking is \$532 million dollars.¹⁵ Medicaid costs caused by smoking in Delaware is \$95.6 million.¹⁶ Residents' state and federal tax burden from smoking-caused government expenditures is \$905 per household.¹⁷ While the smoking-caused productivity losses in Delaware are \$391.2 million.¹⁸ These amounts do not include health costs caused by exposure to secondhand smoke, smoking-caused fires, smokeless tobacco use, or cigar and pipe smoking.

Given the taxation and the monetary impact on the State and residents, the State of Delaware should be looking at ways to save lives and health care costs from smoking by helping adults quit and keeping youth from starting instead of considering a premium cigar excise tax reduction.

¹⁰ Gentzke AS, Wang TW, Cornelius M, et al. Tobacco Product Use and Associated Factors Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. MMWR Surveill Summ 2022;71(No. SS-5):1–29. DOI: <http://dx.doi.org/10.15585/mmwr.ss7105a1>^{external icon}

¹¹ Cornelius ME, Loretan CG, Wang TW, Jamal A, Homa DM. Tobacco Product Use Among Adults — United States, 2020. MMWR Morb Mortal Wkly Rep 2022;71:397–405. DOI: <http://dx.doi.org/10.15585/mmwr.mm7111a1>

¹² CDC, Behavioral Risk Factor Surveillance System, 2018.

¹³ CDC, Youth Risk Behavior Surveillance System, 2017.

¹⁴ 2019 BRFSS

¹⁵ Campaign for Tobacco-Free Kids. The Toll of Tobacco in Delaware. Updated January 21, 2022. <https://www.tobaccofreekids.org/problem/toll-us/delaware>

¹⁶ Campaign for Tobacco-Free Kids. The Toll of Tobacco in Delaware. Updated January 21, 2022. <https://www.tobaccofreekids.org/problem/toll-us/delaware>

¹⁷ Campaign for Tobacco-Free Kids. The Toll of Tobacco in Delaware. Updated January 21, 2022. <https://www.tobaccofreekids.org/problem/toll-us/delaware>

¹⁸ Campaign for Tobacco-Free Kids. The Toll of Tobacco in Delaware. Updated January 21, 2022. <https://www.tobaccofreekids.org/problem/toll-us/delaware>

If the State wants to make a difference with tobacco initiation and use by adults and youth can substantially be reduced by the most effective tobacco control strategies, including, increasing the price of tobacco products through regular and significant cigarette tax increases of at least \$1.00 per pack with equivalent tax increases on all other tobacco products, including premium cigar taxes. It is important that tax increases apply to all tobacco products at an equivalent rate to encourage people to quit rather than switch to a cheaper product as well as to prevent youth from starting to use any tobacco product.

Therefore, given the arguments and evidenced-based data referenced above, ACS CAN **OPPOSES** SB 131 w/SA 1 and asks the committee for an unfavorable committee report.

I can be contacted at jocelyn.collins@cancer.org or **301-254-0072** with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jocelyn I. Collins".

Jocelyn I. Collins



April 13, 2022

The Honorable Stephanie Bolden
Chair, House Revenue and Finance Committee
Delaware General Assembly
411 Legislative Avenue
Dover, DE 19901

SUBJECT: Opposition to Senate Bill 131

Dear Chair Bolden and Members of the Committee:

The American Heart Association would like to voice opposition to Senate Bill 131, AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXATION OF PREMIUM CIGARS, by Senator Sturgeon, and we thank the committee for the opportunity to submit testimony.

The American Heart Association is the nation's oldest and largest voluntary organization dedicated to fighting heart disease and stroke. Heart disease is the No. 1 killer worldwide, and stroke ranks second globally. Even when those conditions don't result in death, they cause disability and diminish quality of life. We want to see a world free of cardiovascular diseases and stroke. Our mission is to be a relentless force for a world of longer, healthier lives.

Tobacco use is a leading cause of cardiovascular disease (CVD) and is responsible for one out of four CVD deaths.ⁱ Overall, tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 people in America each yearⁱⁱ and accounting for approximately \$226 billion annually in health care costs nationally and \$532 million in Delaware.ⁱⁱⁱ

Tobacco taxes are a proven way to reduce and prevent the use of dangerous and addictive tobacco products, particularly among young people and in communities that have been aggressively targeted by tobacco marketing. The American Heart Association advocates for significantly increasing tobacco taxes at the federal, state and local levels, and further recommends taxing all tobacco products at a rate on par with the state's cigarette tax. According to the Campaign for Tobacco-Free Kids, this would equate to 38% of the wholesale price in Delaware.^{iv}

Senate Bill 131, which would lower the tax rate for premium cigars from 30% to 15% of the wholesale price, is a step in the wrong direction.

Cigarettes are not the only harmful tobacco product. Cigar smoking is deadly and addictive and, just like cigarette smoking, produces toxic secondhand smoke.^v But while cigarette smoking has generally been declining over the past several years, sales of cigars have been rising fast – especially among youth. One reason is that many young people and smokers do not realize that cigars are still addictive, harmful, and deadly. Another big reason is that many states tax cigars at much lower rates than they tax cigarettes. It is important to raise tax rates on all tobacco products to prevent initiation with – or switching to – lower-taxed and lower-priced tobacco products.

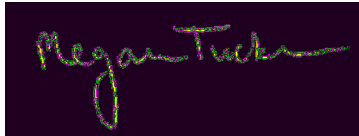
Lastly, another concern is that this bill would create a new definition for premium cigars in Delaware code, which could lead to requests for exemptions of these types of products in the future.

Delaware has made great strides in tobacco control and prevention – please don't take a step back.

The American Heart Association urges the committee to **oppose Senate Bill 131** – and further encourages the General Assembly to increase the cigar tax to achieve parity with the state's cigarette tax.

Thank you for your consideration.

Sincerely,



Megan Tucker
Government Relations Regional Lead
DE, NJ, CT, RI
(401) 824-4818 | megan.tucker@heart.org

ⁱ Centers for Disease Control and Prevention.

https://www.cdc.gov/tobacco/basic_information/health_effects/heart_disease/index.htm

ⁱⁱ U.S. Department of Health and Human Services (HHS), The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General, Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

https://www.cdc.gov/tobacco/data_statistics/sgr/50th-anniversary/index.htm#report.

ⁱⁱⁱ <https://www.tobaccofreekids.org/assets/factsheets/0176.pdf>. State data from CDC, Best Practices for Comprehensive Tobacco Control Programs—2014, http://www.cdc.gov/tobacco/stateandcommunity/best_practices. National data from Xu, X et al., “U.S. healthcare spending attributable to cigarette smoking in 2014,” Preventive Medicine, 2021. State estimates in 2009 dollars; national estimate in 2014 dollars. Health costs do not include estimated annual costs from lost productivity due to premature death and exposure to secondhand smoke.

^{iv} <https://www.tobaccofreekids.org/assets/factsheets/0169.pdf>

^v <https://cancercontrol.cancer.gov/brp/tcrb/monographs/monograph-09>



Members of the Committee:

I am Steve Zengel, CEO and President of Los Caidos, Inc., a national cigar brand with presence in 180 stores across 31 states, Washington DC, and Puerto Rico. We incorporated in Delaware on March 16, 2018 and I am pleased to be here in support of cigar retail shop owners in the State of Delaware.

It is my absolute pleasure to speak today in staunch support of S.B. 131 which calls for a reduction in "...the tax rate for premium cigars from 30% to 15% of the wholesale price."

I was a retail cigar shop owner in New Jersey before becoming a national brand owner. Quite similar to the situation surrounding retail cigar shop owners in Delaware, New Jersey, too, has an Other Tobacco Products (OTP) tax on premium cigars of 30% and as does Delaware, New Jersey borders Pennsylvania, a state with no OTP tax on premium cigars. Only in the case of New Jersey, the shared border with Pennsylvania is considerably larger, nearly 140 miles.

Based on my intimate experience in cigar retailing in a state with close parallels to cigar retailing in Delaware, I would like to address the Assumption made by the Fiscal Note which states that, "this Act will result in an estimated reduction in annual tax revenues from premium cigar sales in the amount of \$610,610." I disagree.

I contend that the State of Delaware would find exactly the opposite, an increase in annual tax revenues from premium cigar sales, for the following reasons:

1. Lowering the OTP tax from 30% to 15% removes the current incentive cigar smokers in the state of Delaware have by going across the border and into Maryland to purchase cigars and half the OTP rate. It should be noted that a majority of the cigars purchased out of state (MD or PA) and brought back into Delaware are most likely not enjoyed or smoked in a local Delaware cigar retail shop.
2. The border Delaware shares with Maryland is of great length. Thus, greater amounts of revenue can be kept home once the incentives for crossing the border are removed.
3. Delaware cigar retailers have greater chances of staying open as small businesses once the incentive to travel out-of-state for cigar purchases is removed because cigar smokers in Delaware can now stay home and support their local retail cigar shop without a concern of having to pay an additional 15% in OTP. Small businesses that stay open mean more in revenue through licensing, fees, job creation, and taxation.
4. A demand curve, alone, without considering neighboring OTP rates, suggests that lowering the OTP from 30% to 15% will create more demand.



LOS CAIDOS

Again, I base my contentions on my experience as a former cigar retailer in New Jersey, a state with the exact same OTP rate as Delaware and a state which shares a very large border with a neighboring state with a much lower OTP rate.

New Jersey's OTP rate of 30% is a major reason I shut down the cigar retail business in New Jersey.

I am here today because I do not want cigar retailers in Delaware taking the same course of action if such can be avoided with the passing of S.B. 131.

Thank you.



Members of the Committee:

I am Josh Habursky, Deputy Executive Director of Government Affairs for the Premium Cigar Association, a national trade advocacy organization representing over 3,000 premium cigar and pipe retailers across the nation, and today, pleased to represent our Delaware membership.

We are pleased to speak today in support of S.B. 131 which calls for a reduction in the Other Tobacco Products tax on premium handmade cigars from 30% to 15% to create a competitive tax rate with neighboring states. This measure should be viewed as a small business assistance piece of legislation, because that is what it truly represents - a source of support for less than fifty Delaware small businesses.

Premium handmade cigars are a niche product that are infrequently consumed and purchased in age verified venues for adult patrons. In the tobacco arena, they are distinct in that they do not carry the public health implications associated with other tobacco products, as studies clearly denote that the association with inhalation, addiction and mortality are statistically virtually undetectable. As significant is that premium handmade cigars do not appeal to youth, as demonstrated in surveys and enforcement data.

We would like to address a point made by the Fiscal Notes provided to this committee. It stated that Delaware would stand to lose \$610,610 in revenue. We contend state would actually capture that amount and more from those patrons that would turn their business inward based upon more competitive pricing given that each surrounding state has a lower rate of taxation, and in the case of Pennsylvania - zero. It would also prompt customers to "shop local," instead of sending their business to other lower cost alternatives.

Today you will undoubtedly hear testimony that seeks to associate this bill as being about smoke, tobacco, and equating all such products in the same light. We contend and can document that such is not the case. We have the studies to support the position on public health issues, as well as the demographic data to depict the customer base of these unique Delaware small businesses.

We hope that the committee and legislature will advance this source of support for Delaware small businesses, in this uncertain economic time that spans from pandemic recovery, to market inflation. This is a unique opportunity to address a source of assistance for small businesses and their patrons that are based in Delaware. S.B 131 is a pro small business bill that the Premium Cigar Association strongly endorses.

Thank you.



April 13, 2022

Chair Bolden and Members of the House Revenue & Finance Committee:

Thank you for the opportunity to provide comments on Senate Bill 131, An Act to Ammend Title 30 Of The Delaware Code Relating to Taxation of Premiums Cigars sponsored by Senator Sturgeon and Senator Townsend. The American Lung Association **strongly opposes** this bill.

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education and advocacy. The work of the American Lung Association is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

As drafted, Senate Bill 131 would impose a decrease in the tax rate of premium cigars from 30% to 15% of the wholesale cost of a premium cigar. The American Lung Association is concerned as the proposed language is decreasing the current tax rate, making premium cigars more accessible and decreasing revenue that is invested in tobacco cessation and prevention efforts in our state. This undermines the strong work and commitment the legislature has taken over the years to prevent people from smoking including House Bill 242 from 2017 which many members supported. House Bill 242 was a strategic and comprehensive approach to address smoking and included an increase in the cigarette tax, added an e-cigarette tax and increased the tax on other tobacco products to 30% in a first step towards an equalized tax rate among tobacco products.

Tobacco use remains the leading cause of preventable death in the United States, killing an estimated 480,000 Americans each year.¹ Research is clear that the most effective way to address smoking rates is to increase taxes on these products and invest those funds in a tobacco control programs including prevention and cessation efforts.

The American Lung Association supports policies regarding increasing tobacco taxes on all tobacco products as part of a comprehensive tobacco control program and as an effective strategy to decrease smoking rates. The American Lung Association believes that all tobacco products should be considered similar and tied to the tax rates on cigarettes. Senate Bill 131 is proposing a decreased tax rate for a certain type of tobacco product, premium cigars as referenced in the bill. However, premium cigars as are other tobacco products are essentially the same as cigarettes and carry the same health risks with their usage – including cancer and lung disease. In fact, the amount of tobacco in a large premium cigar in many cases equals the same amount of tobacco in an entire pack of cigarettes. The Lung Association is concerned that by lowering tax rates on certain products it might encourage smokers to turn to these lower-priced alternatives rather than focus on quitting.

Finally, significant taxes on all tobacco products result in fewer kids starting to smoke, and in more adults quitting while at the same time providing substantial revenue to fund important health and tobacco prevention programs. While Senate Bill 131 may seem to have a narrow focus, tobacco policy cannot be done in isolation and without concern for unintended consequences. Tobacco prevention and control requires a multifaceted approach and policy measures must be comprehensive and address all products to be effective.

The American Lung Association thanks you for the opportunity to provide comments and express our concerns with Senate Bill 131. We ask that you continue Delaware's commitment to a healthier community and vote against Senate Bill 131 which would take a step backwards in the fight to curb smoking in Delaware.

Sincerely,

A handwritten signature in cursive script that reads "Aleks Casper".

Aleks Casper
Director of Advocacy
American Lung Association

¹ U.S. Department of Health and Human Services. The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health 2014.



April 13, 2022

Members of the House Revenue & Finance Committee:

As one of the six medical marijuana providers in Delaware, Columbia Care supports a movement to adult-use in the State that expands affordable access for patients, an equitable expansion of new businesses, and well-regulated industry that protects consumers. The medical provider community has invested millions of dollars in establishing state of the art cultivation and retail facilities, as well as the hundreds of jobs to operate them, which continue to contribute to Delaware's economy. More important, in collaboration with the State, the medical provider community has created a safe and secure process for the growing, distribution and sales of marijuana products in Delaware. As we have expressed to the bill sponsor, the combined experience, strong quality protocols and standards, and existing capacity can support a successful, equitable, and safe roll out of Adult Use cannabis in Delaware that also expands patient access. HB 372, like the bills that have preceded it, fails to protect and expand medical access the way nearly every other state that legalized cannabis has tried to do. Along with those concerns, this written comment provides some specific areas, including social equity provisions, where House Bill 372 could be strengthened as it seeks to implement Adult Use in Delaware.

- 1) The regulatory construct of adult-use needs to blend into the already existing and robust regulatory regime for the medical program. The current proposed multi-agency regulatory plan will create an uneven patchwork of oversight for this industry that will not be effective. It will create unnecessary delays, inefficiencies and confusion for license holders and regulators alike. A single regulatory agency responsible for both medical and adult-use cannabis is the most streamlined and cost-effective approach.
- 2) The large volume of new licenses in HB 372 on a short timeline will make it very difficult for a regulator, especially a brand new one, to staff up in time to provide the strict regulatory oversight required to ensure safety and protect against diversion into the illicit market. It will also make it difficult for the regulator to provide adequate technical support to small and minority owned businesses. Growing the program in phases allows the regulator to ensure employee and consumer safety while expanding the market for affordable product that can compete with illicit market prices. Issuing licenses in phases also allows the legislature and regulator to update the program if the current definitions fail to achieve the legislature's equity goals.
- 3) The legislation does not currently allow medical providers to participate in the emerging adult-use market in a meaningful way. In our conversation with the sponsor, we were told that the intent was for medical providers to be able to participate by ensuring preference for past cannabis experience and other measures in the application. That can complicate entry for social equity applicants. If the goal is to ensure improved patient affordability and the continuation of Delaware's existing legal cannabis operators, 50% being certified minority and veteran owned businesses, then the licensing program should have a separate onramp for the medical cannabis operators who are already here. In addition to providing a stabilizing role in a transition due to the existing footprint, the only way to improve patient affordability is if adult use and medical co-exist. Just look to Oregon, where the same approach reduced the medical cannabis dispensary count from hundreds to just one.

- 4) The legislation does not provide a sustainable pathway to social equity licenses. This is partly due to the extraordinary number of licenses the bill authorizes and the lack of a mechanism to support these enterprises financially. One example of how existing medical operators could support social equity applicants is through a mentorship or incubator program, with elements specified by the regulator, to provide technical and financial support to new social equity licensees. New York is taking a similar approach in the first conditional cultivation licenses they are issuing for adult use, as is Connecticut. Other states have found success in requiring current medical operators to pay fees to fund social equity grants, loans, and educational programs and provide a mentorship program, all designed to help assure their success. HB372's lack of social equity grants will hinder these new licensees' ability to access capital and operationalize a license.

Again, Columbia Care supports adult use legislation that works for all Delawareans. We would be happy to work with members of the General Assembly to continue to share experiences that might inform a thoughtful and successful path towards the initiative.

Ngiste Abebe
Vice President, Public Policy
Columbia Care

Good afternoon, Madame Chair and members of the committee.

Lincoln Willis with the DE League of Local Governments. While the League opposes legalization of the recreational use of marijuana, we think that if it is legalized there should be a proper regulatory framework governing its implementation.

We also agree that it should be taxed. We foresee, as has been true in other jurisdictions, an increase in impaired driving, domestic disputes and the like. This would increase police, fire, ambulance and paramedic response, and costs for the municipalities and counties. While training is covered by federal funds, that doesn't account for increased demand for first responders and hours spent addressing these issues.

As such we would ask that 3% of the 15% of the tax be shared with the municipalities and counties—1.5% to municipalities and 1.5% to counties. We recommend municipal distribution in a manner reflective of the way MSA is calculated for municipalities—a combination of population and road miles (to reflect the exposure for traffic incidents). As for the distribution to the counties we would recommend a split based upon the way funding for paramedics is calculated.

We appreciate our discussion with the bill sponsor as well who, respectfully recommends a different route.

However, we think the most equitable way to deal with increased local costs, whether they have their own police and paramedic departments or they pay into state police funding, would be to distribute 3% of the tax as outlined above.

Thank you.

Roger Green, MD, FAAP (retired)
10 Evergreen Lane
Woodstock, NY 12498
(845) 679-7611

April 11, 2022

Testimony in Support of Delaware House Bill HB372

Thank you for allowing me to testify. I am a retired pediatrician with thirty years experience, retired Fellow of the American Academy of Pediatrics and a proud member of Doctors For Cannabis Regulation (DFCR), a group of several hundred physicians and health professionals who support the legalization and evidence-based regulation of cannabis.

I am an unpaid volunteer with no financial connection to any cannabis related businesses and own no cannabis related stock.

I strongly support both HB371 and HB372, but much prefer HB372 because

- 1) HB372 allows Delaware to protect its citizens from contaminated and dangerous products through testing and quality standards.
- 2) HB 372 will help move people who now are buying and selling in the giant underground economy to a regulated, taxed and legal mainstream economy.
- 3) Decreased violence when cannabis sales are no longer taking place in the shadows.

There are many other benefits of a legalized, regulated system I will not go into here. Please forgive me for oversimplifying or skipping over many important issues for the sake of brevity.

I believe that many of us approach the complex and important topic of cannabis legalization in a way that is not productive.

Many of the well meaning opponents of legalization point to potential harms of cannabis use such as cannabis use disorder, motor vehicle accidents, unknown effects of cannabis in pregnancy and in children, especially with increased THC levels.

These topics are all worth discussing in detail but I believe this is missing the most crucial point. Quite simply keeping cannabis illegal for over 50 years has not stopped Americans from using cannabis, nor prevented any of these problems. In fact it is created many new problems.

We must always remember that before the first states allowed cannabis use there were tens of millions of Americans who used cannabis regularly, just as there are now.

Cannabis prohibition caused and worsened many potential problems. Just to name a few:

- Disrespect of law enforcement and government officials
- Contaminated cannabis
- Vape induced lung disease
- Use of dangerous synthetic cannabinoids
- Worst of all countless children grew up with a parent incarcerated for non-violent cannabis offenses. Absence of a parent can have life long harmful effects for children

It is self-evident that five decades of keeping cannabis illegal has failed to stop cannabis use and related problems. Cannabis prohibition is not just ineffective, it's made things worse.

In 1933 our grandparents and great grandparents were wise enough and humble enough to accept that 13 years of alcohol prohibition had lead to a rise in violence and a thriving underground economy but had not stopped Americans from drinking alcohol.

I hope that today we can have the wisdom and humility to accept that the same is true about cannabis prohibition.

I haven't time to discuss why "decriminalization" is little better than prohibition nor about what we can learn from Canada and state legal programs. I've deliberately kept my remarks and written statement brief but would be happy to speak in detail further.

Roger Green, MD, FAAP (retired)

Rep. Bolden and Rep. Osienksi,

The Department of Safety and Homeland Security (DSHS) reviewed HB 371 and HB 372. I have detailed feedback from three of our divisions impacted by the bills.

As with the previous version of the marijuana bills, DSHS and its divisions oppose HB 371 and HB 372.

- The Federal Controlled Substances Act (CSA)⁴ classifies marijuana as a Schedule I drug. Drugs classified as Schedule I are considered the most dangerous class of drugs with no currently accepted medical use and a high potential for abuse. Some examples of other Schedule I drugs include heroin, MDMA (ecstasy, Molly), LSD, mescaline (peyote), and psilocybin (mushrooms). **The Schedule I classification puts state laws legalizing medical or recreational marijuana at odds with the CSA.**
- Legalization of marijuana also creates an environment for the creation of gray market sales—the sale of goods and services that are technically legal, but are not authorized to be sold. The news article below references the development of gray market sales and arrests in New Jersey.

Possessing Marijuana is Legal in New Jersey But These Gray Market Operators Got Busted

<https://www.nj.com/marijuana/2021/11/possessing-marijuana-is-legal-in-nj-but-these-gray-market-operators-got-busted.html>

Division of Forensic Science (DFS)

Forensic Chemistry Lab Manager Ashley Wang noted that her concerns are the same as those highlighted from the original bill (HB 305). Please see her comments and questions below.

Synthetic Substitutes

- Both bills cite 4714(d)(19) in Ch. 47, and that definition includes synthetic substitutes. Since Ch.47 lists synthetic cannabinoids separately and if you are not looking to legalize synthetic cannabinoids, DFS suggest the definition should be changed to remove “synthetic substitutes”. This is also supported by your definition of marijuana and it being the compounds extracted from the plant.
- With the original bill being separated into two parts, if HB 371 passes and HB 372 does not, it would still not define hemp vs. marijuana. This would only set personal quantity values and would cause confusion for testing since it falls back to 4714(d)(19), which includes all THC.

HB 372

- HB 372 defines marijuana to include every compound extracted. This would include all THC (delta-3, delta-8, delta-10). However, during the synthetic cannabinoid discussion, it was mentioned that there may be plans to work with DHSS to make delta-8 illegal. DFS suggests that clarification maybe needed given the conflicting statements.
- Line 62 states DFS will test alcoholic liquor per request of DATE. At our last discussion with Sen. Osienksi, DFS asked to strike this from the bill.
- In multiple places through the bill, it discusses “concentrated marijuana” but does not give a definition. When asked previously, DFS was told the Commission of Marijuana would set the threshold for what is concentrated. DFS suggests clarification to determine if they are discussing an actual value for concentrated (0.X0%), or if the term is just to represent products made using extracts from marijuana (edibles, vape cartridges, etc.).

- Also, in regard to concentrated marijuana, is that only discussing delta-9-THC, or any compound extracted from marijuana and put in a product?
- Line 643 states 1 ounce of marijuana or its equivalent in marijuana products, including marijuana concentrate. What would be the equivalent?
- Line 682 states the potency of the marijuana concentration must be posted next to the product using the standard established in this chapter. Are they referring to the posting standard or the concentration standard? As of right now, there is not a set concentrated standard.
- Line 802 states multi serving liquids must be packaged so that serving increments of 10 milligrams of active THC per service, with no more than 500 milligrams of active THC per package. Is that any THC or just delta-9-THC?

Division of Alcohol and Tobacco Enforcement (DATE)

DATE Director John Yeomans shared the comment/question below.

HB 372

Line 555-558 mentions employees of retail marijuana store establishments trained in recognizing valid identification cards.

- Should this perhaps be part of a larger server training program similar to alcohol? In Title 4 section 1204 outlines in the Statute a server training program for anyone who mixes, pours, or serves alcoholic beverages on a licensed premises. The statute is then supported with an OABCC Rule that gets detailed about the training program. People who obtain certification receive training in the effects of alcohol, DUI, over-service, underage compliance, fake ID detection, etc. Currently server training programs are provided on-line by Delaware Restaurant Association and E-TIPS.
- Both Washington State and Colorado have Cannabis Server training programs. DATE is checking to determine if the server training programs are mandatory.

Office of Highway Safety (OHS)

Driving Under the Influence (DUI) Enforcement

- Should the bill pass, OHS recommends having 75 – 100 DREs available for DUI calls.

There are currently 48 Drug Recognition Experts (DREs). A drug recognition expert or drug recognition evaluator (DRE) is a police officer trained to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol.

These are law enforcement officers that are trained to conduct evaluations for drug impaired driving. They can evaluate a driver and form an expert opinion that a driver is impaired by cannabis. These officers are a limited resource, the evaluation is timely, and often the officers are called out on over-time to conduct the evaluation. This is our best tool for determining drug impairment “roadside”. A DRE is a highly trained, specialized and very technical role. There is a significant amount of time/training/equipment and resources invested in a DRE.

There were 363 DRE evaluations in 2020, 284 in 2021.

- DUI Arrests
 - 2019 – 4,605
 - 2020 – 4,045
 - 2021 – 4,515

- We currently have approximately 300 officers Advanced Roadside Impaired Driving Enforcement (ARIDE) trained. This course trains law enforcement officers to observe, identify and articulate signs of impairment related to drugs, alcohol, or a combination of both.
- Should the bill pass, it is recommended that all officers/troopers within a year of graduating from the academy complete an ARIDE course.
- We currently hold 2-3 ARIDE courses per year. This is a 2-day course. We can train about 25-30 officers/trooper per course. There are efforts from DSP to increase the number of courses available

DRE funding requests (estimates):

- Overall DRE program costs to OHS:
 - FY2019 – 102,848
 - FY2020 - \$92,950 (OT costs down because of COVID, no DRE Conference)
 - FY2021 - \$117,857
- DRE training
 - Equipment costs are about \$800 per each new DRE
 - Costs for initial training for a new DRE is about \$2,000 each
 - Annual recertification training costs could average about \$500 per DRE
- We currently have a statewide call out system for DREs but one of our biggest obstacles is not having a DRE available for a callout as many are off duty when needed. They are not paid to be on-call, like a Detective or fatal crash investigator may be. The DRE coordinator recommends funding to have a DRE on-call in each county at all times. Estimated cost is up to \$100 per day depending on union contracts, etc. At 3 DREs on call per day, that would be about \$110,000 per year. While 3 is preferred, 2 may be adequate.
- Our DRE tablet-based reporting system license costs about \$24,000 per year. With additional DREs, that could go up to about \$40,000 per year or more.

One of the largest costs of DUI-Drug enforcement is the cost to draw blood. A conservative estimate is the need for \$275,000-\$300,000 per year to fund the cost of blood draws that is currently borne by individual police agencies. This would cover on-call phlebotomy costs and does not include increased personnel and equipment costs for the Division of Forensic Science to test the blood. Division of Forensic Science bears an increased cost for DRE blood draw testing as it currently is best practice to screen for all confirmatory drugs until a DRE case has been tested in court.

Kimberly H. Chandler
 Deputy Secretary
 Delaware Dept. of Safety and Homeland Security
 P.O. Box 818
 800 Bay Road, Suite 2
 Dover, DE 19903
 (302) 744-2667 - office

(302) 632-7060 - cell

kimberly.chandler@delaware.gov (new email address)

Thank you Chairwoman Boldin and committee members.

I am writing in support of HB 372.

My name is Mark Jacobs; I am a retired software engineer who lives in Lewes. I am also a cannabis consumer of many years.

My now, you have heard many reasons why cannabis should be legalized, I won't reiterate them here. However there is one overarching reason that you should vote "Yes" to legalize cannabis and end the failed, pointless policy of prohibition. Delaware, as you know, has no mechanism for direct democracy, that is no referenda or voter initiatives. Therefore, our legislators must feel an extra obligation to enact the voters' will. The electorate of Delaware has firmly decided this issue with around $\frac{2}{3}$ approval for legalization. And a large majority of support is from citizens who are not cannabis consumers [in a 2020 SAMHSA poll, 18.5% of Delawareans admit to being cannabis consumers]. Not only our citizens favor legalization; legalization is favored by majorities in all political parties, and indeed a majority of this very legislative body, which has given majority, but not supermajority, support to this policy.

So we have a situation where we are under minority rule. This is surely not how democracy is supposed to work. Please enact the voters' will and vote to legalize cannabis and end the costly, destructive policy of prohibition. Vote "Yes" on HB 372.

Mark Jacobs
Lewes, DE
302-313-4743
mark.jacobs509@gmail.com

Testimony in Support of HB 372
AN ACT TO AMEND TITLE 4, 11, 16, AND 30 OF THE DELAWARE CODE
RELATING TO THE CREATION OF THE DELAWARE MARIJUANA CONTROL
ACT

Submitted by: Lizzie Golob
To the House Revenue & Finance Committee
Wednesday, January 26, 2022

Good Afternoon Chairwoman Bolden and members of the committee. My name is Lizzie Golob, I live in Millsboro, Delaware. I am a retired teacher, a wife, mom of three and a cannabis consumer. I advocate for the passing of this bill with my fellow Delaware NORML volunteers. I am asking that you please vote 'Yes' on HB372.

I am all for regulating cannabis like alcohol. As an adult we should be able to choose what goes into our bodies. Studies have shown that cannabis can not kill you, unlike alcohol. I would rather smoke and get a good night's sleep, then wake up with a hangover.

This bill will treat cannabis much like alcohol when it comes to safe consumption. There will be restrictions as to where you are allowed to consume cannabis. Providing a safe market for consumers can also prevent underage sales.

Our neighbors in New Jersey, and Virginia have legalized and Maryland is close. Delaware needs to be the next in the Mid-Atlantic to do so. This would bring many jobs to Delaware and help boost the economy. It would create a safe market for Delawareans to go to, in our own state.

Once again I ask that you please vote 'Yes' on HB372 to regulate cannabis in the first state, today and when it comes to the house floor. Thank you for listening to me today.

Lizzie Golob
20476 Asheville Dr
Millsboro, DE 19966



April 13, 2022

HB 372

Testimony from Olivia G. Naugle, senior policy analyst, MPP, in support of HB 372

Dear Chair Bolden and members of the House Revenue and Finance Committee:

My name is Olivia Naugle, and I'm the senior policy analyst for the Marijuana Policy Project, the largest marijuana policy reform organization in the United States. MPP has been working to improve marijuana policies for over 25 years. As a national organization, we have expertise on the approaches taken by different states. MPP is also the convening organization of the Delaware Cannabis Policy Coalition, a diverse group of organizations that acknowledge that cannabis prohibition has failed and are working to support a better solution — regulating and taxing cannabis similarly to alcohol.¹

MPP has played a leading role in most of the major cannabis policy reforms since 2000, including more than a dozen medical cannabis laws and the legalization of marijuana by voter initiative in Colorado, Alaska, Maine, Massachusetts, Nevada, Michigan, and Montana. MPP's team also spearheaded the campaigns that resulted in Vermont and Illinois becoming the first two states to legalize marijuana legislatively and played an important role in the legalization efforts in Connecticut and Virginia. Most recently, the Maryland Legislature approved a constitutional amendment that will allow voters to decide on legalizing cannabis for adults on the ballot this November, in which MPP also played a role.

The Marijuana Policy Project strongly supports legalizing and regulating cannabis for adults 21 and older and doing so in a way that repairs the damage inflicted by criminalization. That includes expungement of past cannabis convictions, provisions to ensure diversity and social equity in the industry, and reinvestment in communities hard-hit by the war on cannabis.

MPP supports Rep. Osienski's House Bill 372. Should the legislature move forward with HB 371 this year, legalizing simple cannabis possession for adults, it should also pass HB 372 to provide a system of regulation and taxation for adult-use cannabis that focuses on public health and equity.

I am here today to discuss the positive impacts this policy change will have and to encourage the legislature to move forward with this important reform.

I. Prohibition has clearly failed.

Before discussing HB 372, I'd like to start by pointing out the problems with the current policy of prohibition. One does not have to support cannabis use to recognize that prohibition has not worked. Like alcohol prohibition before it, cannabis prohibition has failed — and it has caused tremendous amounts of suffering.

¹ A note on terminology: marijuana is the legal term normally used to refer to the cannabis plant. This bill uses the botanical term "cannabis," defining it in the same way that "marijuana" is currently defined in the criminal law. The terms are used interchangeably throughout this document.

Despite the vast sums spent on hundreds of thousands of marijuana arrests made in the U.S. every year, prohibition hasn't stopped adults or youth from accessing cannabis. Marijuana remains readily available in Delaware and across the United States. Prior to any state permitting sales to adults, 40% of American high schoolers reported that they had a peer who sold marijuana at school, compared with less than 1% who knew a peer selling alcohol in school.² This is probably because unlike licensed liquor stores, drug dealers do not check IDs. Regulating cannabis would move sales into safe, licensed retail stores where workers check IDs, instead of schools. Criminalizing the production and distribution of cannabis only serves to enrich and empower the criminals and cartels that control this lucrative market. It does nothing to keep marijuana away from young people.

Further, the public recognizes the harms associated with marijuana prohibition. Popular support for legalization has increased significantly over time. Nationwide, an October 2021 Gallup poll found that 68% of Americans support making cannabis legal for adults, up from 60% in 2016, 48% in 2008, and 36% in 2005.³ Public support is also strong here in Delaware. An October 2018 poll conducted by the University of Delaware found that 61% of Delawareans support legalization.⁴

II. A path to a better solution — regulation — has already been forged by 18 other states.

As it became increasingly obvious that prohibition was not working, states have begun to choose a more sensible approach — taxing and regulating cannabis similarly to alcohol.

Colorado and Washington voters led the way in November 2012. Since then, Alaska, Oregon, California, Maine, Massachusetts, Nevada, Michigan, Illinois, Vermont, Virginia, Connecticut, New Jersey, New Mexico, Arizona, New York, and Montana have followed suit. In fact, in 2021 alone, four states legalized cannabis legislatively — New York, New Mexico, Virginia, and Connecticut. Most of the new laws are still being implemented. However, Arizona became the quickest state to begin legal, adult-use sales — less than three months after passage of the law in 2020. Arizona sales began on January 22, 2021.

Delaware can learn from the 18 states that have paved the way. These states also illustrate the benefits of replacing prohibition with taxation and regulation.

For example, according to Gov. Jay Inslee and Attorney General Bob Ferguson of Washington State:

Our state's efforts to regulate the sale of marijuana are succeeding. A few years ago, the illegal trafficking of marijuana lined the pockets of criminals everywhere. Now, in our state, illegal trafficking activity is being displaced by a closely regulated marijuana industry that pays hundreds of millions of dollars in taxes. This frees up significant law enforcement resources to protect our communities in other, more pressing ways.⁵

Earlier this year, Gov. Inslee was asked about Washington's experience with legalization and said, "What I would say is that our experience in Washington has been uniformly positive on any way you

² Columbia University, National Center on Addiction and Substance Abuse Survey, 2012.

³ "Support for Legal Marijuana Holds at Record High of 68%," *Gallup*, November 1, 2021. Available at <https://news.gallup.com/poll/356939/support-legal-marijuana-holds-record-high.aspx>.

⁴ UD poll: Most favor legal weed, universal health care, October 18, 2018. Available at <https://delawarestatenews.net/news/ud-poll-most-favor-legal-weed-universal-health-care/>.

⁵ Letter from Washington Gov. Inslee and AG Ferguson to U.S. Attorney General Jeff Sessions, February 15, 2017. Available at <https://www.documentcloud.org/documents/3474339-Gov-AG-Ltr-to-Sessions-Re-Marijuana-002.html>.

score this—from a reduction of unnecessary law enforcement and criminal activity that really wasn’t benefiting our community, on creating jobs in a new industry, on giving people more freedom in their personal decision making with no demonstrable, horrendous health impacts. By any measure, it’s been a very successful enterprise.”⁶

Former Gov. John Hickenlooper of Colorado, who strongly opposed the 2012 initiative that legalized marijuana in his state, has said that, while implementation was challenging, it was “also one of the things I’m most proud of.”⁷ He also said that from a “35,000-foot level” things in Colorado have gone well, pointing to the fact that health officials have not seen increased teen use or a dramatic increase in overall consumption, and that polls show residents are increasingly in favor of continued legalization.⁸

In Colorado, more than \$390 million in adult-use cannabis tax revenue was collected in 2021.⁹ As of January 2022, Colorado had 38,000 cannabis jobs.¹⁰ Meanwhile, Washington State brought in more than \$630 million in cannabis tax revenue in 2021.¹¹

Cannabis tax revenue has been used to fund numerous programs improving the lives and health of the states’ residents. Colorado devotes much of its cannabis tax revenue to school construction, and state education officials have used marijuana taxes to give \$6 million dollars to 71 schools since 2016 to fund anti-bullying education. Meanwhile, in 2018, Washington used \$262 million of its cannabis tax revenue to help pay for its share of Medicaid, which insures nearly 1.8 million low-income Washington residents. It also allocated more than \$5 million in a biennium to provide beds for youth residential treatment services and to address substance use disorders.

HB 372 would allocate seven percent of tax revenue from legal sales on a monthly basis to a Justice Reinvestment Fund, with the remainder allocated at the discretion of the General Assembly. The Justice Fund would be used to administer grants, contracts, services, or initiatives with a focus on: restorative justice, jail diversion, workforce development, and industry-specific technical assistance or mentoring services for economically disadvantaged persons in disproportionately impacted areas; addressing the underlying causes of crime, reducing drug-related arrests, and reducing the prison population in Delaware; and creating or developing technology to assist with the restoration of civil rights and expungement of criminal records.

III. Taxing and regulating cannabis will replace the illicit market with a tightly regulated system.

The demand for cannabis was there before Delaware decriminalized it, and it’s still there now. Allowing legal businesses to meet that demand will eliminate most illicit market sales and lead to safer

⁶ Kyle Jaeger, “Legalizing Marijuana Has Been a ‘Uniformly Positive’ Move in Washington State, Governor Says,” *Marijuana Moment*, March 16, 2021. Available at <https://www.marijuanamoment.net/legalizing-marijuana-has-been-a-uniformly-positive-move-in-washington-state-governor-says/>.

⁷ Alicia Wallace, “Colorado gov’s weed advice for California: Focus on edibles, home grows, pesticides,” *The Cannabist*, *Denver Post*, February 14, 2017. Available at <http://www.thecannabist.co/2017/02/14/colorado-marijuana-advice-california-governor-john-hickenlooper/73656/>.

⁸ *Ibid.*

⁹ <https://cdor.colorado.gov/data-and-reports/marijuana-data/marijuana-tax-reports> (The listed “Tax Revenue” by calendar year is higher because it includes the 2.9% sales tax on medical sales. Breakdowns are available at the Historical Report Excel.)

¹⁰ Leafly Jobs Report, 2022. Available at <https://leafly-cms-production.imgix.net/wp-content/uploads/2022/02/22132544/LeaflyJobsReport2022.pdf>.

¹¹ <https://www.mpp.org/issues/legalization/cannabis-tax-revenue-states-regulate-cannabis-adult-use/>

outcomes for communities and consumers. Cannabis users and sellers face dangers due to prohibition.¹² As with alcohol prohibition in the 1920s, since drug-related disputes can't be solved lawfully, violence is inevitable.

Replacing prohibition with sensible regulation is also far better for workers. In the underground market, workers are vulnerable to exploitation and violence and, of course, they are at risk of felony convictions and prison time.¹³ A regulated market offers important protections to workers, from health and safety regulations to unemployment insurance and social security, in addition to all the advantages of working in a legal industry instead of a criminal market.

Finally, prohibition guarantees cannabis won't undergo quality control testing, resulting in possible contamination by pesticides, fertilizers, molds, bacteria, or the lacing of cannabis with other drugs — unnecessarily putting consumers at risk. This bill, if passed, provides requirements for testing to ensure quality control, including by ensuring that marijuana and marijuana-infused products are accurately labeled for potency. Additionally, testing analyses must include testing for residual solvents, poisons, toxins, harmful chemicals, dangerous molds or mildew, filth, harmful microbials such as E. coli or salmonella, and pesticides.

IV. Conclusion

Thank you to Chair Bolden and the members of the committee for your time and attention to this important issue. I respectfully urge a favorable report of HB 372 to tax and regulate cannabis for adults 21 and older.

If you have any questions or need any additional information, I would be happy to help and can be reached at the number or email address below.

Sincerely,

Olivia G. Naugle
Senior Policy Analyst
Marijuana Policy Project
onaugle@mpp.org
202-905-2037

¹² See Xerxes Wilson, "Law classmate sentenced to 15 years for Hockessin drug murder," *Delaware News Journal*, February 21, 2019; Craig Anderson, "Conviction upheld in Abdul White murder case," *Delaware State News*, February 22, 2019.

¹³ See Shoshana Walter, "In secretive marijuana industry, whispers of abuse and trafficking," *The Center for Investigative Reporting*, September 8, 2016.

To the Members of the House Revenue & Finance Committee: I am writing to urge you to vote YES on HB 372 to tax and regulate marijuana. Few bills can have, as this one does, a positive effect both on Delaware's economy and on the level of social justice in our state. We do a good job regulating alcohol and can do the same good job regulating marijuana.

Thank you for your vote.

:: Moira K. Donoghue, Registered Voter
:: mkd.donoghue@gmail.com



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T: (781) 393.6985

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

Date: April 13, 2022

Re: HB 371 - Decriminalize adult possession of up to 1 ounce of Cannabis &
HB 372 - 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 submit testimony in support of both HB 371 and HB 372. I represent myself as a retired district judge 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 behalf of criminal justice and drug policy reforms we believe can improve public safety.

During my career as a judge for the District Court of Tulsa, Oklahoma, I spent decades hearing marijuana cases. Looking back, I realize the time would have been better spent on more serious crimes. Our communities were not made safer by those cases. Not only could court resources be better utilized, but also the time spent by police officers making the arrests.

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 young person 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 make it harder for them to earn their degree, get hired for a job, or even secure a decent 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

Fortunately, legislation is being considered that would free up system resources by decriminalizing low-level marijuana possession in Delaware. HB 371 would legalize possession of up to one ounce of cannabis for adults age 21 and older. Possession of more than one ounce of marijuana and public consumption would remain unclassified misdemeanors. It would also provide that there would be no criminal or civil penalty for transfers of one ounce or less of marijuana between persons who are 21 years of age or older without remuneration. HB 372, the Delaware Marijuana Control Act would regulate and tax marijuana in the same manner as alcohol.

By passing these bills, Delaware would be following in the footsteps of a dozen other states, which are demonstrating that marijuana can be safely regulated. Recent peer-reviewed research reveals that state-level [marijuana legalization has not led to more youth use](#). In addition, federal survey data shows that youth marijuana use [decreased significantly in 2021](#).

I am a resident of the Delmarva Peninsula, and although 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. HB 371 and HB 372 are a step in the right direction in changing 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)

Roger Green, MD, FAAP (retired)
10 Evergreen Lane
Woodstock, NY 12498
(845) 679-7611

April 11, 2022

Testimony in Support of Delaware House Bills HB371 and HB372

Thank you for allowing me to testify. I am a retired pediatrician with thirty years experience, retired Fellow of the American Academy of Pediatrics and a proud member of Doctors For Cannabis Regulation (DFCR), a group of several hundred physicians and health professionals who support the legalization and evidence-based regulation of cannabis.

I am an unpaid volunteer with no financial connection to any cannabis related businesses and own no cannabis related stock.

I strongly support both HB371 and HB372, but much prefer HB372 because

- 1) HB372 allows Delaware to protect its citizens from contaminated and dangerous products through testing and quality standards.
- 2) HB 372 will help move people who now are buying and selling in the giant underground economy to a regulated, taxed and legal mainstream economy.
- 3) Decreased violence when cannabis sales are no longer taking place in the shadows.

There are many other benefits of a legalized, regulated system I will not go into here. Please forgive me for oversimplifying or skipping over many important issues for the sake of brevity.

I believe that many of us approach the complex and important topic of cannabis legalization in a way that is not productive.

Many of the well meaning opponents of legalization point to potential harms of cannabis use such as cannabis use disorder, motor vehicle accidents, unknown effects of cannabis in pregnancy and in children, especially with increased THC levels.

These topics are all worth discussing in detail but I believe this is missing the most crucial point. Quite simply keeping cannabis illegal for over 50 years has not stopped Americans from using cannabis, nor prevented any of these problems. In fact it is created many new problems.

We must always remember that before the first states allowed cannabis use there were tens of millions of Americans who used cannabis regularly, just as there are now.

Cannabis prohibition caused and worsened problems such as:

- Disrespect of government and law enforcement officials
- Contaminated cannabis
- Vape induced lung disease
- Use of dangerous synthetic cannabinoids.
- The main reason we have very high potency (high THC concentration) products is because of prohibition. Entrepreneurs developed high concentration plants and products because it was easier to hide THC in small volumes.
- Worst of all countless children grew up with a parent incarcerated for non-violent cannabis offenses. Absence of a parent can have life long harmful effects for children.

It is self-evident that five decades of keeping cannabis illegal has failed to stop cannabis use and related problems. Cannabis prohibition is not just ineffective, it's made things worse.

In 1933 our grandparents and great grandparents were wise enough and humble enough to accept that 13 years of alcohol prohibition had lead to a rise in violence and a thriving underground economy but had not stopped Americans from drinking alcohol. So the 18th amendment was repealed.

I hope that today we can have the wisdom and humility to accept that the same is true about cannabis prohibition.

I haven't time to discuss why "decriminalization" is little better than prohibition nor about what we can learn from Canada and state legal programs. I've deliberately kept my remarks and written statement brief but would be happy to speak in detail further.

Roger Green, MD, FAAP (retired)

Delaware (2022): HB 372, Testimony in support of establishing and regulating adult -use cannabis market

My name is Jax James and I serve as the State Policy Manager for the National Organization for the Reform of Marijuana Laws (NORML). I would like to thank the Revenue & Finance Committee for considering House Bill 372. NORML is supportive of legislative efforts to establish a regulated, adult -use cannabis market.

House Bill 372, or the Delaware Marijuana Control Act, seeks to legalize adult -use possession and establish regulated cannabis retail sales in the interest of public health. If passed, the bill would tax and regulate marijuana products in a similar manner to alcohol. The bill outlines a regulatory framework for legalization and retail sales, including for open licenses, social equity licenses, and microbusiness licenses. It establishes the Justice Reinvestment Fund and focuses on social equity provisions to cultivate a restorative and inclusive industry.

Never in modern history has there existed greater public support for repealing the nation's nearly century-long experiment with marijuana prohibition. According to statewide polling data compiled by the University of Delaware, 61 percent of state voters favor legalizing marijuana.

The ongoing prohibition of marijuana financially burdens taxpayers, encroaches upon civil liberties, engenders disrespect for the law, impedes legitimate scientific research into the plant's medicinal properties, and disproportionately impacts communities of color. It's time to stop ceding control and revenue of the marijuana market to unregulated and untaxed enterprises. A pragmatic regulatory framework that licenses production and sale of marijuana to adults –but continues to criminalize sale to minors –best reduces the risks associated with its use and commerce.

Reforming how citizens engage with police and restoring confidence in public institutions requires immediate cannabis policy reform action. The American Civil Liberties Union (ACLU) research report, *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform* (2020) concluded: “On average, a Black person is 3.64 times more likely to be arrested for marijuana possession than a white person, even though Black and white people use marijuana at similar rates. Just as before, such racial disparities in marijuana possession

arrests exist across the country, in every state, in counties large and small, urban and rural, wealthy and poor, and with large and small Black populations. ”

This same report displays findings that in 2018, Black Delawareans were over four times more likely to be arrested than white individuals for possession of marijuana, making Delaware’s average 14 per cent higher than the national average for racial disparities in marijuana arrests. If lawmakers wish to repair the harms caused by the racially motivated criminalization of marijuana and reap the benefits of legalization and a regulated market, they should thoughtfully consider and pass HB 372 for the people of Delaware .

To whom it may concern,

The prohibition of cannabis has been a failure. People of all walks of life use cannabis yet the majority of those who are penalized for cannabis use/possession are citizens of color. Our state spends way too much money criminalizing and housing inmates on low level cannabis offenses. Many other states (including NJ across the bridge) have recently legalized cannabis. At the very least cannabis possession needs to be decriminalized. At most it needs to be a regulated market. You can go to many other states a few hours away and purchase high quality cannabis products. The benefit to this is that you know what you're getting and you have many alternatives besides smoking when it comes to consuming it. A regulated cannabis market in Delaware would create jobs and generate a huge amount of tax revenue for our state so that we can invest in the things we need to make our community great. In a few weeks or months NJ will begin sales of cannabis. People from Delaware will cross the ridge and spend their money there. By not getting in line with the times DE will be losing a huge amount of money that it could easily keep within the state. At this point not legalizing cannabis would be a grave and ignorant mistake. Please do the right thing and vote yes on HB 371 and 372.

Thank you for your time.

Shannon McCleary