



Testimony for the Senate Judicial Proceedings Committee February 25, 2014

SB 658 – The Marijuana Taxation and Regulation Act

SARA N. LOVE
PUBLIC POLICY
DIRECTOR

SUPPORT

The ACLU of Maryland supports SB 658. The War on Marijuana has failed. It is time for a new, more rational approach to marijuana, one based in health, personal autonomy and science and one that does not ruin lives—primarily the lives of people of color.

Whether you agree with marijuana use or not, it is a commonly used substance. In 2012, there were 18.9 million past-month users in the United States.¹ There is a vast industry of plant varieties, edibles, cigarettes, machinery, grow lights, lotions and balms for pain relief, and more.² These are not shady, underground, under-performing individuals: marijuana use spans races, genders, socio-economic status. Given this widespread use, the question then is: do we continue marijuana prohibition, or change the paradigm?

The War on Marijuana has taken a tremendous financial and personal toll on Marylanders. Maryland taxpayers spend over \$1.1 billion per year to maintain a bloated prison system; a system that has tripled in size since 1980. In 2010, Maryland spent approximately \$106 million enforcing marijuana possession laws. As for the people behind these numbers, on average, from 2008 – 2012, the State of Maryland arrested 24,065 people per year for marijuana possession. In 2010, when we arrested 23,663 people, we had the 7th largest number of raw arrests for marijuana possession, outranking more populous states like Pennsylvania and Ohio.³

Those arrests fell disproportionately on communities of color. Despite comparable rates of use, African Americans in Maryland are 3 times more likely than their white counterparts to be arrested for marijuana possession. This is true in every county across our state from Worcester (1.8x) to Prince Georges (2.5x) to Garrett (6.5x). And it doesn't matter whether the county is majority white or majority black, the racial disparity in the arrest rates is consistent.⁴ In 2013, Baltimore was 64% African American, but 91% of all minor marijuana arrests were African American.⁵ In 2010, Montgomery County was 18% African American but 46% of all marijuana possession arrests were of African Americans.⁶

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND
DIRECTORS
COLEMAN BAZELON
PRESIDENT

SUSAN GOERING
EXECUTIVE DIRECTOR

C. CHRISTOPHER BROWN
GENERAL COUNSEL

¹ 2012 National Survey on Drug Use and Health: Summary of Findings, <http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/NationalFindings/NSDUHresulsts2012.htm>

² Marc Fisher, *Marijuana's rising acceptance comes after many failures. Is it legalization's time?* THE WASHINGTON POST (Jan. 23, 2014), http://www.washingtonpost.com/politics/marijuanas-rising-acceptance-comes-after-many-failures-is-it-now-legalizations-time/2014/02/22/9adc8502-98dd-11e3-80ac-63a8ba7f7942_story.html. See also, www.dixieelixers.com.

³ The ACLU of Maryland, *The Maryland War on Marijuana in Black and White* (October 2013), http://www.aclu-md.org/marijuana_reform.

⁴ *Id.*

⁵ *Baltimore Mayor 'Appalled' at Disproportionate Marijuana Arrest rates for African Americans*, FOX45 (Feb. 21, 2014), <http://foxbaltimore.com/news/features/top-stories/stories/baltimore-mayor-appalled-at-disproportionate-marijuana-arrest-rates-african-americans-25690.shtml#.Uwn47aU7VBW>.

⁶ The ACLU of Maryland, *The Maryland War on Marijuana in Black and White* (October 2013), http://www.aclu-md.org/marijuana_reform.

Following the lead of Colorado and Washington, the two states that have moved to systems of taxation and regulation of marijuana like alcohol, makes sense. It makes sense for the safety of our people, our kids and our communities. It makes economic sense. And the majority of Marylanders agree with it.

Taxation and Regulation Makes Sense.

Under our current system of marijuana prohibition, law enforcement spend an inordinate amount of time and resources with marijuana possession cases. Arresting people has not reduced use of marijuana or made our communities safer. Instead, it has taken the place of law enforcement focusing on more serious crimes. By taxing and regulating marijuana, law enforcement can expend their efforts on solving the real crimes and keeping us safe.

Arresting people for marijuana possession also has not kept our communities safe. Drug wars continue, with rampant violence in their wake. This is exactly the same scenario we saw with alcohol prohibition, and it wasn't until alcohol was legalized again did we see that violence abate.

Marijuana prohibition is dangerous. By removing marijuana from the criminal market, we remove those users from that criminal element. Not only will that keep them safer, but it will prevent their introduction to other drugs. For it is not marijuana that is the "gateway," but the criminal environment. Those individuals buying marijuana in Colorado aren't buying from criminals who are also trying to sell them other drugs. Not only are marijuana users – the millions of them among us – not going to be going to criminals to buy their medicine (as it is an effective medication for many people suffering from chronic pain and other conditions) or their recreational drug, but they will also know what they are getting. Relegating people to getting their medicine or their choice of recreational substance from a criminal means they are at risk of the marijuana being laced with dangerous chemicals or other drugs.

Moreover, putting marijuana in a controlled environment would be a better way to protect our kids. Right now, kids report that marijuana is easier to buy than beer. Beer is regulated by the government, and no seller wants to risk their license by selling to underage drinkers. Statistics indicate this is more than a theory: in 2010, Colorado went to a controlled medical marijuana market. From 2009-2011, youth usage rates of marijuana in Colorado declined by 11%.⁷ By contrast, during that time period nationwide youth usage rates of marijuana rose by the same amount.⁸ And unlike regulated business owners, criminals don't care. They don't care what age their buyer is. Moreover, they actively recruit kids to help them sell, as kids are able to sell to other kids.

Finally, taking marijuana out of the criminal system and putting it in the health system can only benefit everyone. For those youth users who we want to discourage use, we can

⁷ Centers for Disease Control and Prevention, *High School Youth Risk Behavior Study, 2009-2011 Results*,

<http://apps.nccd.cdc.gov/youthonline/App/Results.aspx?TT=K&OUT=0&SID=HS&QID=H48&LID=LL&YID=YY&LID2=&YID2=&COL=&ROW1=&ROW2=&HT=&LCT=LL&FS=1&FR=1&FG=1&FSL=&FRL=&FGL=&PV=&TST=False&C1=&C2=&QP=G&DP=1&VA=CI&CS=Y&SYID=2009&EYID=2011&SC=DEFAULT&SO=ASC>

⁸ *Id.*

look to the successes of the decline in usage of alcohol and tobacco.⁹ We were able to reduce teen usage of alcohol and tobacco through education, without arresting a single one of them.

For those who do become addicted to marijuana (studies show it is far less than those addicted to alcohol or cigarettes¹⁰), with a system of taxation and regulation we can focus our efforts on helping them get the health care they need to beat their addiction. Arresting addicts does nothing to help them with their addiction; they need health care, addiction treatment and counseling.

Taxing and regulating marijuana also makes economic sense. As noted, in 2010, Maryland spent \$106 million enforcing marijuana possession laws. In Colorado, they made \$5 million in the first week¹¹ and Gov. John Hickenlooper predicts marijuana sales will add \$134 million in tax revenue in the fiscal year starting this July.¹² Saving money from not having to enforce possession laws, redirecting our law enforcement's energies into violent crimes, taking the new revenue created and using it for mental health treatment, drug and alcohol treatment, schools, infrastructure and more, is simply good sense.

Marylanders realize the time has come to change the paradigm. Polls show that a majority of Marylanders believe we should move to a system of taxation and regulation.¹³

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 658.

⁹ See, Johnston, L.D., O'Malley, P.M., Miech, R.A., Bachman, J.G., & Schulenberg, J.E (2014) *Monitoring the Future, National Survey Results on Drug Use 1975-2013; Overview, Key Findings on Adolescent Drug Use*. Ann Arbor: Institute for Social Research, The University of Michigan. <http://www.monitoringthefuture.org/pubs/monographs/mtf-overview2013.pdf>

¹⁰ Maia Szalavitz, *Is Marijuana Addictive? Depends on How You Define Addiction*, TIME: HEALTH & FAMILY (Oct. 19, 2010)(addiction rate for cigarettes 20-30%; addiction rate for alcohol 15%; addiction rate for marijuana 9-10%), <http://healthland.time.com/2010/10/19/is-marijuana-addictive-it-depends-how-you-define-addiction/>.

¹¹ Matt Ferner, *Colorado Recreational Marijuana Sales Exceed \$5 Million in First Week*, THE HUFFINGTON POST (Jan. 8, 2014), http://www.huffingtonpost.com/2014/01/08/marijuana-sales-colorado_n_4552371.html

¹² John Ingold, *Hickenlooper expects marijuana tax money to exceed prior expectations*, THE DENVER POST (Feb. 19, 2014), http://www.denverpost.com/news/ci_25185649/hickenlooper-expects-marijuana-tax-money-exceed-prior-expectations

¹³ In an October 2013 poll by ACLU of Maryland and the Marijuana Policy Project, 53% of Marylanders supported a system of taxation and regulation like Colorado and Washington, <http://www.mpp.org/assets/pdfs/download-materials/Maryland-Poll-Results.pdf>. A recent Washington Post Poll asked a different question and found a different result (49% of Marylanders support legalizing marijuana). Frederick Kunkle and Scott Clement, *Poll: Nearly half of Marylanders back legalizing pot; 43 percent are opposed*, THE WASHINGTON POST (Jan. 23, 2014), http://www.washingtonpost.com/local/md-politics/poll-nearly-half-of-marylanders-back-legalizing-pot-43-percent-are-opposed/2014/02/22/b63f6ffc-9a64-11e3-b931-0204122c514b_story.html?hpid=z5