



**Testimony for the House Judiciary Committee
March 1, 2016**

HB 1304 - Criminal Law – Smoking Marijuana in Public - Penalty

OPPOSE

The ACLU of Maryland opposes HB 1304, which would make it a crime to smoke marijuana in a public place.

First, HB 1304 is a step backwards. The General Assembly passed SB 517 last session and overrode the Governor's veto this session. SB 517 made smoking marijuana in public a civil fine. To now change that penalty to a criminal fine makes a mockery of the override and all those who argued towards keeping a civil fine.

Second, making smoking in public a crime will undo the step that the General Assembly took towards addressing racially biased policing. In 2014, the General Assembly decriminalized possession of a minor amount of marijuana. It did so in large measure due to the disparate way the possession law was enforced. Despite comparable rates of use, Black Marylanders were arrested disproportionately to White Marylanders in every county in the state.¹ Making it a crime to smoke marijuana in public will enable the same racially biased policing to occur.

Black people being accused of smoking marijuana when they are, in fact, smoking a cigarette is not unheard of. For example, Alberto Willmore was a public school teacher, accused of and arrested for smoking marijuana when he was smoking a cigarette. He was a beloved teacher but could no longer teach due to his arrest. That arrest devastated his life.² As Maryland moves forward with the Justice Reinvestment Coordinating Council reviewing our bloated criminal justice system, and the Legislative policing workgroup trying to amend the abyss between police and communities of color, it simply makes no sense to go backwards and re-criminalize people – mostly of color.

Third, it is unclear what problem HB 1304 seeks to solve. Of the four states that have full tax and regulate structures, three have civil fines for smoking in public.³ Of the 10 states other than Maryland that have pure decriminalization statutes, only 2 make smoking in public a crime.⁴ If there were a problem with people smoking marijuana in public, there would be widespread criticism of those statutes and those states would have moved to criminalizing smoking in public.

For the foregoing reasons, the ACLU of Maryland opposes HB 1304.

¹ http://www.aclu-md.org/marijuana_reform

² http://www.huffingtonpost.com/2013/12/09/alberto-willmore_n_4412610.html

³ Alaska Statutes, 17.38.040; Oregon Initiative 91, Section 54; Washington Statutes, RCW § 69.50.445.

⁴ New York Pen. Code §221.10; Delaware Code, Title 16, §4764;

<https://www.mpp.org/issues/decriminalization/state-laws-with-alternatives-to-incarceration-for-marijuana-possession/>

AMERICAN CIVIL
LIBERTIES UNION OF
MARYLAND

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

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 410
TAKOMA PARK, MD 20912
T/301-270-2258

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
COLEMAN BAZELON
PRESIDENT

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ANDREW FREEMAN
GENERAL COUNSEL