



**Testimony for the Senate Judicial Proceedings Committee
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**SB 517 – Criminal Law – Use and Possession of Marijuana and Drug
Paraphernalia**

SUPPORT with Amendments

The ACLU of Maryland supports, with amendments, SB 517, which would clarify the law on the possession of marijuana paraphernalia in light of the passage of SB 364 last session, restrict marijuana smoking in public, remove the 10g restriction on possession, amend the criminal law to follow the medical marijuana law, clarify the law regarding the “search” of vehicles, and prohibit using marijuana in a motor vehicle.

Paraphernalia

SB 517 would clarify the law with respect to marijuana paraphernalia. Recognizing the vast cost – both to individuals and to society – of arresting people for possessing a small amount of marijuana, last session the General Assembly passed SB 364, which decriminalized possession of 10 grams or less of marijuana.

In so doing, however, the General Assembly left the paraphernalia statute intact. This created the odd situation where individuals could not be arrested for possessing a small amount of marijuana, but could be arrested for the rolling paper or the baggie that was with that marijuana. SB 517 would rectify that incongruity.

Smoking in Public

While we support the ban on smoking marijuana in public, we respectfully propose that the fine is excessive and should be in line with violating the ban on smoking tobacco in public. Maryland bans smoking tobacco products in indoor areas open to the public: a first violation results in a letter of reprimand; a second is a \$100 fine; and subsequent violations are \$250. Health Article §24-508.

10g restriction

SB 364 of 2014 made the possession of less than 10g of marijuana a civil offense. While this was a good first step, it is far below the amounts decriminalized by other states. The 10g limit is the lowest of any state that has decriminalized possession, and the majority of those states laws have decriminalized possession of 1 ounce.¹ We support removing the 10g restriction.

Medical Marijuana

The General Assembly has passed several bills over the years relating to medical marijuana, recognizing the vast medical potential of marijuana. It can relieve addiction, anxiety, tension, stress, depression, digestive problems, inflammation, nausea, vomiting, pain, spasms and convulsions. It is beneficial in disease management of arthritis, ADHD, PTSD, cancer, gastrointestinal disorders, HIV/AIDS, insomnia, migraines, movement disorders and multiple sclerosis. Last session the General Assembly’s passed – and the Governor signed – HB 881, altering the purpose of the Natalie M. LaPrade Commission to formulate a medical marijuana system including licensing, growing and distributing to patients. In light of that law, and the fact that we will soon have a fully functioning medical marijuana system, the

¹ See, <http://www.mpp.org/assets/pdfs/library/State-Decrim-Chart.pdf>

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portion of the criminal code that retains a penalty for medical marijuana possession or use must be deleted.

Car Searches

For each person found with marijuana, many more who are innocent of any wrongdoing have been stopped and searched by police under the guise of marijuana enforcement. About one-third of all car searches by Maryland State Police between 1995 and 2008 – nearly 9,000 searches – were conducted based on troopers’ claims that they “detected the odor of marijuana.” But more than 70% of the time that police claimed they “detected the odor of marijuana,” no drugs of any kind were found. As a result, we are very concerned with the use of the “odor of marijuana” as a means by which to search cars, when police have no other reason to believe the person is violating the law.

Usage in Cars

We agree that people should not smoke marijuana in a moving vehicle - especially the driver - but also passengers, out of concern of the effects of second-hand smoke on the driver. However, SB 517 as written is overly broad. First, SB 517 bans any “use” of marijuana. That means a medical marijuana patient could not have their cookie or other form of medicine, while a passenger in a car. Thus, we respectfully request that the ban be amended from “use” to “smoke.”

Second, we respectfully request that SB 517 be amended to change “highway” to “expressway,” in the proposed §21-903.1, to more accurately reflect what we believe is the intent of that provision. Preventing individuals from smoking marijuana in a car that is being driven, parked or otherwise located on an expressway makes sense. We do not want people smoking marijuana while driving, nor do we want people pulling to the side of the road in order to do so. However, the definition of “highway” is broader than the roadway we think it is, and can include cars parked on streets or in parking lots. Transportation Article, §11-127. If someone is prohibited from using marijuana in their house, so wants to use it in their car that is parked on the street – with no intention of driving – they should be able to do so without prosecution.

For the foregoing reasons, the ACLU of Maryland supports SB 517, with amendments.