



Maryland State's Attorneys' Association

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DATE: January 18, 2021

BILL NUMBER: HB 324

POSITION: Unfavorable

The Maryland State's Attorney's Association (MSAA) opposes HB 324.

HB 324 alters the demarcation between civil and criminal possession of marijuana by increasing the threshold to one ounce. This legislation further creates a new presumption against the State that an individual in possession of less than one ounce of marijuana is not in violation of possession with intent to distribute marijuana unless there is the admission of undefined "other evidence."

Decriminalizing the possession of marijuana by steadily incremental amounts does nothing to address issues surrounding the illicit sale and consumption of narcotics, which includes organized crime, violence and public health concerns. The belief that these issues will simply evaporate under this construct is illogical. Many other States have attended legalization through ballot initiatives which brings with it healthy public debate and a mandate. These State's legislatures have then addressed some of the above concerns by developing financial and regulatory frameworks. Maryland should adopt this methodology, rather than resort to piecemeal legislation.

The incorporation of an undefined rebuttable presumption against the State further complicates this issue. Presumptions against evidence generally take away from a fact finder's right to fairly evaluate evidence and affix weight where appropriate. This rebuttable presumption requires the State to prove an extra element of a crime, where none has existed prior, which will create confusion amongst jurors and is generally unfair. The entire purpose of a trial is to force the State to provide evidence to prove each and every element of a crime beyond a reasonable doubt in order to overcome the original presumption of innocence. Additional rules governing a trial have evolved so that each side is given equal opportunity to argue that the evidence presented applies, or does not apply, to this presumption so that a measured and fair outcome may be achieved. This overarching principle is hampered by adding additional stressors onto the process, including adding confusing elements to crimes, and, as in this case, beginning each possession with intent to distribute case from the vantage point that the evidence is untrue. The presumption proposed in this legislation usurps the province of the jury and thwarts any notion of an equitable trial.

This legislation fails to solve any real issue and provides an arbitrary line along with an inequitable evidentiary tactic. Both of these issues should be reserved for a ballot measure.

For these reasons, the MSAA requests an unfavorable report on HB 324.