



Testimony for the House Judiciary Committee

January 24, 2024

Vehicle Laws – Cannabis Use in Motor Vehicle With Minor Occupant – Prohibition

UNFAVORABLE

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The ACLU of Maryland respectfully urges an unfavorable report on HB 217 which would establish new penalties for smoking, vaping, or consuming cannabis in a vehicle with a minor occupant.

There is already a prohibition on smoking cannabis in a motor vehicle under MD Code, Transportation, § 21-903 and MD Code, Criminal Law, §10-125 for drivers and occupants of a vehicle, respectively. Such penalties vary based on whether the individual was the driver or simply a passenger of the vehicle. However, any occupant of a vehicle, whether driver or passenger, is already prohibited from smoking cannabis in a vehicle. In addition to smoking, consumption of cannabis by a driver of a motor vehicle is also already prohibited and subject to penalties. This bill criminalizes consuming cannabis when a minor is in the vehicle regardless of method of consumption or who is consuming the cannabis. Under this law, a vehicle passenger who takes a cannabis gummy for medicinal purposes would be criminalized despite the fact that they are not operating the vehicle and the gummy ingestion would have no effect on the child.

It is well documented that increasing penalties does not dissuade people from engaging in undesirable behavior. To the contrary, it can actually exacerbate recidivism and the conditions that lead to criminality. Removing and incarcerating parents for up to a year does not benefit a child and can lead to devastating collateral damage for both parents and children, including an increased risk of engaging in future criminal behavior.¹

This bill would also further enable racial profiling and arbitrary stops by police, allowing police another in roads to harass Black and brown people under the guise of an investigation of a potential violation. In 2022, Maryland

¹ <https://www.ojp.gov/pdffiles1/nij/247350.pdf>; <https://www.vera.org/news/children-suffer-when-parents-are-imprisoned#:~:text=Imprisoning%20parents%20hurts%20children..the%20criminal%20legal%20system%20themselves.>

police were more than two times more likely to search Black drivers and their vehicles during traffic stops than white drivers. For search incidents involving Black drivers, probable cause, which is highly subjective, was used to justify 75% of searches. In cases involving white drivers, probable cause was only used to justify a search in 51% of incidents.² Last year, in attempt to end this practice, the General Assembly passed HB 1071, which banned stops and searches based on the odor of marijuana. HB 217 would roll back progress made just last year to end racial profiling in traffic stops.

For the aforementioned reasons, the ACLU of Maryland respectfully urges an unfavorable report on HB 217.

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² <https://goccp.maryland.gov/data-dashboards/traffic-stop-data-dashboard/>