



**March 4, 2021**

**SB 708**

**Testimony from Olivia Naugle, legislative analyst, MPP, favorable with amendments SB 708**

Dear Chair Kelly, and members of the Senate Finance Committee:

My name is Olivia Naugle, and I am a legislative analyst for the Marijuana Policy Project (MPP), the largest cannabis policy reform organization in the United States. MPP has been working to improve cannabis policy for 25 years; as a national organization, we have expertise taken by different states.

MPP has played a leading role in most of the major cannabis policy reforms since 2000, including more than a dozen medical cannabis laws and the legalization of marijuana by voter initiative in Colorado, Alaska, Maine, Massachusetts, Nevada, Michigan, South Dakota, and Montana. MPP's team spearheaded the campaigns that resulted in Vermont and Illinois becoming the first two states to legalize marijuana legislatively, and has played an important role in the Virginia legalization effort.

The Marijuana Policy Project strongly supports legalizing and regulating cannabis for adults 21 and older, and doing so in a way that repairs the damage inflicted by criminalization. That includes expungement of past cannabis convictions, provisions to ensure diversity and social equity in the industry, and reinvestment in communities hard-hit by the war on cannabis.

Given the trends in polling, and the increasing recognition by elected officials on both sides of the aisle that criminalizing cannabis users has done more harm than good, ending marijuana prohibition in Maryland has become less a question of "if" and more about "when" and "how."

MPP strongly supports Delegate Jazz Lewis' HB 32 — "The Cannabis Legalization and Regulation—Inclusion, Restoration, and Rehabilitation Act of 2021." S.B. 708 includes many of HB. 32's excellent provisions. On February 16, Del. Lewis submitted a reprint of HB 32 with the goal of creating a single, unity bill. We urge the committee to revise SB 708 to mirror the reprint of HB 32, to create mirror bills.

First, I would like to discuss the positive impacts SB 708 will have, followed by the amendments, which we believe will make this legislation stronger and more equitable. We encourage the legislature to legalize, tax, and regulate cannabis for adults this session.

## **I. Cannabis prohibition has failed.**

Before discussing SB 708, I'd like to start by pointing out the problems with the current policy of prohibition. One does not have to support cannabis use to recognize that prohibition has not worked. Like alcohol prohibition before it, cannabis prohibition has failed — and it has caused tremendous amounts of suffering.

Despite the vast sums spent on hundreds of thousands of marijuana arrests made in the U.S. every year, prohibition hasn't stopped adults or youth from accessing cannabis. Cannabis remains readily available in Maryland and across the United States. Whereas cannabis use was relatively rare when it was first essentially prohibited nationwide in 1937,<sup>1</sup> after decades of prohibition, about half of Americans — including Presidents Bill Clinton, George W. Bush, and Barack Obama — acknowledge having used it.<sup>2</sup> In Maryland, almost 16 percent of adults admit having used cannabis in the past year.<sup>3</sup>

Prohibition has also failed our youth. Prior to any state legalizing adult-use cannabis sales, 40% of American high schoolers reported they had a peer who sold cannabis at school, compared with less than 1% who knew a peer selling alcohol in school.<sup>4</sup> This is probably because unlike licensed liquor stores, drug dealers do not check ID. Regulating cannabis moves sales into safe, licensed retail stores where the only people selling or buying cannabis are adults, not schoolchildren.

Criminalizing the production and distribution of cannabis only serves to enrich and empower the criminal organizations controlling this lucrative illicit market. Prohibition also ensures cannabis products are untested, increasing the risk of contamination with illicit pesticides, heavy metals, dangerous molds, hazardous thickening agents, or even other drugs. Only with legalization and regulation can the government control where, when, and to whom cannabis is sold. Only with legalization and regulation can the government ensure testing and labeling.

Further, the public recognizes the harm associated with marijuana prohibition. Popular support for legalization has increased significantly over time. Nationwide, a

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<sup>1</sup> At the dawn of prohibition, Harry Anslinger reportedly said there were 100,000 total marijuana smokers in the U.S. Today, according to the National Survey on Drug Use and Health, about 22 million Americans admit to having used cannabis in the past month. *See* [www.drugabuse.gov/publications/research-reports/marijuana/what-scope-marijuana-use-in-united-states](http://www.drugabuse.gov/publications/research-reports/marijuana/what-scope-marijuana-use-in-united-states).

<sup>2</sup> Mary Emily O'Hara, "New Poll Finds Majority of Americans Have Smoked Marijuana," *NBC News*, April 17, 2017; Brendan Bures, "Here are 11 U.S. Presidents who smoked marijuana," *NY Daily News*, May 16, 2017.

<sup>3</sup> National Survey on Drug Use and Health, "Table 52 – Selected Drug Use, Perceptions of Great Risk, Past Year Substance Use Disorder and Treatment, and Past Year Mental Health Measures in Maryland, by Age Group: Percentages, Annual Averages Based," February 5, 2019. *See* <https://www.samhsa.gov/data/report/2016-2017-nsduh-state-specific-tables>

<sup>4</sup> Columbia University, National Center on Addiction and Substance Abuse Survey, 2012.

October 2020 Gallup poll found that 68% of Americans support making cannabis use legal for adults, up from 60% in 2016, 48% in 2008, and 36% in 2005.<sup>5</sup> Public support is also strong here in Maryland. A February 2019 Goucher poll found that 57% of Marylanders support legalization (with only 37% opposed), up from 54% in 2016.<sup>6</sup>

## **II. Prohibition has racist roots and continues to be unequally enforced.**

While white and Black Marylanders consume cannabis at similar rates, the same cannot be said of the rate at which they are arrested. Prior to decriminalization, Black Marylanders were arrested or cited for marijuana possession 2.9 times more often than were white Marylanders despite similar usage rates.<sup>7</sup> And available evidence suggests that, although decriminalization helps by reducing the number of people who are criminalized, there continues to be a disparity in the remaining arrests. Black Marylanders are still twice as likely to be arrested for simple possession than white Marylanders.<sup>8</sup> Further, *Baltimore Fishbowl* reported in 2018 that even after decriminalization in 2014, Baltimore Police arrested 1,448 adults and 66 juveniles for cannabis possession during 2015, 2016, and 2017. Of those arrestees, 96% were African-American.<sup>9</sup> As a result of this disparity, Black Marylanders are far more likely to be plagued with an arrest record and conviction for cannabis, which makes it harder to get jobs, housing, an education, professional licensing, and other opportunities.<sup>10</sup>

Unfortunately, the racially disparate impact is hardly surprising upon examination of the history of marijuana prohibition and enforcement. In 1971, President Richard Nixon launched the War on Drugs, which a top advisor later explained was

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<sup>5</sup> Brennan, Megan, “Support for Marijuana Inches up to New High of 68%. *Gallup* <https://news.gallup.com/poll/323582/support-legal-marijuana-inches-new-high.aspx>

<sup>6</sup> “Marylanders support raising minimum wage, legalizing recreational marijuana, and banning Styrofoam containers: Feb. 18, 2019, at: <https://htv-prod-media.s3.amazonaws.com/files/goucher-poll-feb19-part1-1550481111.pdf>

<sup>7</sup> ACLU of Maryland, *The War on Marijuana in Black and White*, available at: <https://www.aclu.org/report/report-war-marijuana-black-and-white>.

<sup>8</sup> A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform. *ACLU*. 2020

<sup>9</sup> McLeod, Friedman, & Soderberg. “Structural Racism and Cannabis: Black Baltimoreans still disproportionately arrested for weed after decriminalization”. *Baltimore Fishbowl*. Dec. 28, 2018, available at: <https://baltimorefishbowl.com/stories/structural-racism-and-cannabis-black-baltimoreans-still-disproportionately-arrested-for-weed-after-decriminalization>. It should be noted that the amount decriminalized by Maryland is lower than most other states that have implemented this policy; one ounce (28.3 grams).

<sup>10</sup> Rebecca Vallas, “Should a Criminal Record Be a Life Sentence to Poverty?,” *The Nation*, March 11, 2015. (Nearly nine in 10 employers and four in five landlords conduct background checks.) *See also*, the American Bar Associations’ National Inventory of the Collateral Consequences of Conviction, [www.americanbar.org/groups/criminal\\_justice/niccc/](http://www.americanbar.org/groups/criminal_justice/niccc/) (cataloging over 45,000 federal and state statutes and regulations that impose collateral consequences on persons convicted of crimes.)

motivated by Nixon's desire for a pretext enabling the government to harass and arrest Black Americans and anti-Vietnam War activists.<sup>11</sup>

Unsurprisingly, legalizing cannabis has significantly reduced the number of searches and arrests for cannabis in those states among people of all races.

Data analyzed by the Stanford Open Policing Project found in the first two legalization states —Colorado and Washington — there have been dramatic decreases in traffic searches, which are disproportionately performed on cars with Black or Latino drivers.<sup>12</sup> Traffic stop interactions have led to violence and even death for Black Americans.<sup>13</sup> The data compiled by Stanford researchers shows searches dropped by about half in Washington and Colorado since legalization. Racial disparities have decreased, but have not been eliminated.

Meanwhile, a comprehensive report issued by the Colorado Division of Criminal Justice in October 2018 found that since legalization, the “number of marijuana arrests decreased by 56% for Whites, 39% for Hispanics, and 51% for Black people.”<sup>14</sup> However, racial disparities remain. “The marijuana arrest rate for Black people (233 per 100,000) was nearly double that of White people (118 per 100,000) in 2017.”

Washington State has also seen a striking reduction in the total number of cannabis arrests and in the number of arrests of black individuals for cannabis. Before legalization, there were nine cannabis arrests per 100,000 Washington residents every year.<sup>15</sup> That number approached zero per 100,000 residents by 2015. Unfortunately, as of 2015, Washington had seen an increase in the relative disparities, however.

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<sup>11</sup> Dan Baum, “Legalize It All,” *Harper's Magazine*, Apr. 2016. (Quoting top Nixon aide John Ehrlichman, “The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and Black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”)

<sup>12</sup> Phillip Smith, “States that legalized marijuana see dramatic drop in police traffic searches,” *Alternet*, April 1, 2019. (Before legalization 1.3% of black drivers were subject to traffic searches in Colorado. After legalization, the rate was under 0.2%. Among Hispanic drivers, the rate dropped from 1% to 0.1%. Among whites, the rate of searches dropped from 0.4% to 0.1%. Thus, black drivers went from being 6.5 times as likely to be searched as whites to twice as likely, and the total likelihood of black drivers being subject to a traffic search dropped eightfold.)

<sup>13</sup> Tanvi Misra, “Uncovering Disparities In Policing By Analyzing Traffic Stop Data,” *Pacific Standard*, June 7, 2018.

<sup>14</sup> “Impacts of Marijuana Legalization in Colorado: A Report Pursuant to Senate Bill 13-283,” Colorado Department of Criminal Justice, October 2018, p. 1.

<sup>15</sup> Caislin Firth, et al., “Did marijuana legalization in Washington State reduce racial disparities in adult marijuana arrests?,” *Substance Use and Misuse*, May 2019.

While legalization has not eliminated disparities and arrests, it is important not to lose sight of the fact the total number of people — and the total number of Black people— arrested for cannabis has plummeted in states that have legalized it. This means thousands of people no longer face the trauma of arrests or having their opportunities for housing, education, and employment derailed. It also saves many from deportation: more than 6,000 individuals are deported per year for cases where their most serious offense was cannabis possession,<sup>16</sup> including many who were legally in the country and have established deep roots.<sup>17</sup>

### **III. Legalizing cannabis improves the fairness and efficiency of the criminal justice system.**

SB 708 would legalize possession of up to four ounces of cannabis. By legalizing cannabis this year, the state will save thousands of Marylanders from being searched, arrested, and prosecuted for marijuana offenses. Many of the people who are being prosecuted for possession of over 10 grams will not have to enter the criminal justice system and have their lives impacted by the accompanying collateral consequences. Nor will people in possession of 10 grams or less continue to face fines and stigma for choosing to consume a substance that is a safer alternative to alcohol.

Importantly, this legislation provides for automatic expungement and release for possession and cultivation of the legal amounts and allows individuals to petition for expungement and release for all other cannabis offenses, at no cost to the individual. These strong expungement provisions for past convictions for cannabis possession and cultivation will remove the life-altering scarlet letter such a conviction carries, and allow individuals to move on with their lives.

Legalizing cannabis also frees up police time and resources that are currently wasted in prosecuting adults for cannabis offenses, allowing those resources to be focused on solving crimes with victims. A study published in *Police Quarterly* found that clearance rates (the percent of reported crimes resulting in arrests) increased significantly post-legalization in Washington and Colorado, while remaining basically unchanged in other states.<sup>18</sup> Burglary and motor vehicle theft clearance rates “increased dramatically” while violent crime clearance rates also increased.

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<sup>16</sup> “Secure Communities and ICE Deportation: A Failed Program?,” TRAC Immigration, Syracuse University (finding 6,770 ICE deportations in FY 2013 where the most serious offense was marijuana possession and 6,447 in FY 2012).

<sup>17</sup> *Prado v. Barr*, No. 17-72914, (9th Cir. 2019) (ruled against a woman who had lived in the U.S. since she was six months old and became a lawful permanent resident in 1980; she had a felony marijuana charge prior to legalization in California); Matt Sintsing, “Disabled veteran’s husband at risk for deportation over years old marijuana charges,” Radio.com, December 13, 2018 (green card holder facing deportation for simple possession of cannabis convictions).

<sup>18</sup> “Positive policing changes after cannabis legalization: Clearance rates improve for burglaries, vehicle thefts,” *Science Daily*, July 24, 2018.

The unequal way in which cannabis prohibition is enforced — coupled with its nature as a victimless crime — erodes trust between police and communities at a time when such trust is sorely lacking. As Washington, D.C.’s former police chief bluntly put it: “All these [marijuana] arrests do is make people hate us.”<sup>19</sup> In addition to being valuable in itself, positive police/community relationships improve public safety. A Department of Justice study found that trusting relationships with the local community was one of the most important factors in whether police were effective in solving violent crimes.<sup>20</sup>

#### **IV. A path to a better solution — regulation — has been forged by other states.**

As it became increasingly obvious prohibition was not working and was plagued by inequality, states began to choose a more sensible approach — taxing and regulating cannabis similarly to alcohol.

Colorado and Washington voters led the way in November 2012. Since then, Alaska, Oregon, California, Maine, Massachusetts, Nevada, Michigan, Illinois, and Vermont followed suit. Voters in New Jersey, Montana, South Dakota, and Arizona all legalized cannabis on November 3, 2020 — bringing the total number to 15. Most of the new laws will not be fully implemented for some time. However, Arizona became the quickest state to begin legal, adult-use sales — less than three months of passage of the law. Sales began on January 22, 2021.

Meanwhile, Washington, D.C. legalized adult possession and cultivation of cannabis, but they have not yet regulated cannabis sales. (This is due to Congress’ Harris Rider prohibiting it from spending funds to do so.) Most recently, the Virginia House and Senate passed legalization bills on February 5, 2021, which are expected to head to a conference committee to harmonize the two bills.

As Gov. Jay Inslee and Attorney General Bob Ferguson of Washington State explained:

Our state’s efforts to regulate the sale of marijuana are succeeding. A few years ago, the illegal trafficking of marijuana lined the pockets of criminals everywhere. Now, in our state, illegal trafficking activity is being displaced by a closely regulated marijuana industry that pays hundreds of millions of dollars in taxes. This frees up significant law enforcement resources to protect our communities in other, more pressing ways.<sup>21</sup>

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<sup>19</sup> McCarton Ackerman, “D.C. Police Chief Supports Marijuana Legalization,” *The Fix*, March 4, 2015.

<sup>20</sup> See “Getting Away with Murder,” *The Economist*, July 4, 2015.

<sup>21</sup> February 15, 2021, Letter from Gov. Inslee and AG Ferguson to U.S. Attorney General Jeff Sessions, available at <https://www.documentcloud.org/documents/3474339-Gov-AG-Ltr-to-Sessions-Re-Marijuana-002.html>.

In Colorado, more than \$290 million in adult-use cannabis tax revenue was collected in 2019.<sup>22</sup> As of June 2020, 41,144 individuals held licenses to work directly in Colorado's cannabis businesses.<sup>23</sup> Meanwhile, Washington State brought in more than \$440 million in cannabis tax revenue in 2019.<sup>24</sup>

Cannabis tax revenue has been used to fund numerous programs improving the lives and health of the states' residents. Colorado devotes much of its cannabis tax revenue to school construction, and state education officials have used marijuana taxes to give \$6 million dollars to 71 schools since 2016 to fund anti-bullying education.<sup>25</sup> Meanwhile, in 2018, Washington used \$262 million of its cannabis tax revenue to help pay for its share of Medicaid, which insures nearly 1.8 million low-income Washington residents. It also allocated more than \$5 million in a biennium to provide beds for youth residential treatment services and address substance use disorders.<sup>26</sup>

SB 708 would allocate tax revenue from legal cannabis sales to substance abuse prevention and treatment, funding cannabis research, public education on the risks of alcohol, tobacco, cannabis, and other substances, and to the state's general fund. Most notably, in total, this legislation targets 60 percent of all of the tax revenue to communities that have been disproportionately impacted by cannabis prohibition. These funds include;

- 27% to a community reinvestment and repair fund to serve communities impacted by poverty, mass incarceration, or racism via grants to organizations utilizing evidence-proven and evaluated tactics to address these challenges
- 20% to endowments for the four HBCU's in Maryland
- 10% for zero-interest loans and grants to social equity and minority business applicants;
- 3% for technical assistance for social equity and minority business applicants

More than 450,000 Marylanders use cannabis at least once per month.<sup>27</sup> Allowing legal businesses to meet that demand eliminates the vast majority of illicit market

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<sup>22</sup> <https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data>

<sup>23</sup> Colorado Marijuana Enforcement Division, <https://www.colorado.gov/pacific/enforcement/med-resources-and-statistics>

<sup>24</sup> [https://lcb.wa.gov/sites/default/files/publications/annual\\_report/2019-annual-report-final2.pdf](https://lcb.wa.gov/sites/default/files/publications/annual_report/2019-annual-report-final2.pdf) (\$390 million from excise taxes, \$50.39 million from sales taxes, Washington Department of Revenue, Marijuana sales tax table, available at <https://dor.wa.gov/about/statistics-reports/recreational-and-medical-marijuana-taxes>)

<sup>25</sup> <https://www.marijuanamoment.net/colorado-marijuana-money-funds-cleaner-highways-and-anti-bullying-programs/?fbclid=IwAR34z9AnhWKhc3P7sX4b7hyFfZKBMZaKyXNUgI4nJqqtXRTu12cpggoke9g>

<sup>26</sup> Jake Whittenberg, "Where does Washington's marijuana tax money go?," *King 5 News*, August 8, 2018.

<sup>27</sup> See "2017-2018 National Surveys on Drug Use and Health: Model-Based Estimated Totals (in Thousands); Table 3 Marijuana Use in the Past Month, by Age Group and State: Estimated Numbers (in Thousands), Annual Averages," *National Survey on Drug Use and Health*. See

sales<sup>28</sup> and leads to safer outcomes for communities and consumers. In the underground market, both parties are vulnerable to armed robbery, and disputes cannot be solved in the courts.<sup>29</sup> In jurisdictions with prohibition, violence is sometimes employed to gain market share, further increasing the dangers.<sup>30</sup>

Replacing prohibition with legalization, taxation, and sensible regulation is also far better for workers. In the underground market, workers are vulnerable to exploitation, and they risk felony convictions and prison time.<sup>31</sup> A regulated market offers important protections to workers, from health and safety regulations to unemployment insurance and social security and all the advantages of working in a legal industry instead of the sometimes-dangerous criminal market.

Finally, prohibition guarantees cannabis won't undergo quality control testing, resulting in possible contamination by pesticides, fertilizers, molds, bacteria, or the lacing of cannabis with other drugs or additives, unnecessarily putting consumers at risk. SB 708 establishes a strong regulatory system in which the newly independent Alcohol and Tobacco Commission will be charged with regulating the new adult-use cannabis market. It will develop comprehensive rules governing security, laboratory testing, packaging, labeling, recordkeeping, inspections, prohibiting dangerous pesticides and additives, and restricting advertising.

The recent incidences of severe lung ailments related to vaping underscores the need for effective public health regulations — regulations which are only possible in the context of legalization. As of February 18, 2020, a CDC map shows Colorado, a legalization state, having experienced no more than nine illnesses requiring hospitalization. Meanwhile in neighboring, less populous Utah — where marijuana is not legal — CDC data shows between 100 and 149 cases required

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<https://www.samhsa.gov/data/sites/default/files/reports/rpt23259/NSDUHsaeTotals2018/NSDUHsaeTotals2018.pdf>. This is based on federal survey data, which relies on respondents admitting to something that is illegal. Thus, it is almost surely underreported.

<sup>28</sup> “Market Size Demand for Marijuana in Colorado Market 2017,” Colorado Marijuana Enforcement Division, August 2018. (“Colorado’s preexisting illicit marijuana market for residents and visitors has been fully absorbed into the regulated market.”) However, as long as some states prohibit cannabis, that demand will fuel illicit production and sales. In addition, a variety of policy choices in states that legalize influences how swiftly and completely sales transition to a legal market. For a quicker and more complete transition, regulators should expeditiously license enough businesses of all types to meet demand. Unduly onerous regulations and excessive taxes should be avoided to ensure illicit market cannabis is not cheaper. To avoid large pockets of prohibition, states should allow delivery statewide and incentivize localities to allow sales.

<sup>29</sup> See “Keansburg man found guilty of murder in marijuana robbery,” *New Jersey 101.5*, October 23, 2019; Kathleen Hopkins, “Keyport pot deal murder: ‘I didn’t mean for any of this to happen’ defendant says,” *Asbury Park Press*, October 17, 2019; “NJ man, 22, joins girlfriend in prison for killing weed dealer,” *New Jersey 101.5*, April 4, 2019; “Family of police informant who was murdered, dismembered agrees to \$1M settlement,” *WJBK*, October 4, 2017.

<sup>30</sup> See Dan Werb, et al., “Effect of drug law enforcement on drug market violence: A systematic review,” *International Journal of Drug Policy*, March 2011.

<sup>31</sup> See Shoshana Walter, “In secretive marijuana industry, whispers of abuse and trafficking,” *The Center for Investigative Reporting*, September 8, 2016.



hospitalization.<sup>32</sup> The far better safety profile of regulated products was underscored when CannaSafe, a California-based testing laboratory, recently tested illegal and legal vape cartridges. It found that 13 of the 15 illegal vape cartridges included vitamin E acetate<sup>33</sup> — an additive the CDC recently identified as the likely cause of the illnesses.<sup>34</sup> None of the legal products CannaSafe tested included vitamin E acetate.

## **VI. Much of the opposition to this reform is based on myths and misconceptions about marijuana.**

Finally, I would like to address a few of the most prevalent myths and misconceptions associated with legalizing cannabis for adults.

First, some worry that marijuana is a so-called “gateway” to the use of harder drugs. This concern has been debunked by every major study on the subject. For example, in a seminal 1999 report by the prestigious Institute of Medicine (IOM), part of the National Academy of Sciences, researchers found “marijuana is not the most common, and is rarely the first, ‘gateway’ to illicit drug use. There is no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs.”<sup>35</sup> The report went on to note, “There is no evidence that marijuana serves as a stepping stone on the basis of its particular physiological effect. ... Instead, the legal status of marijuana makes it a gateway drug.”<sup>36</sup> These findings have been confirmed by major peer-reviewed studies in the *American Journal of Psychiatry*, the *British Journal of Addiction*, and the *Journal of Health and Social Behavior*.<sup>37</sup> As William Martin, Director, Baker Institute for Public Policy at Rice University, Texas, recently explained:<sup>38</sup>

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<sup>32</sup> “Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products,” Centers for Disease Control & Prevention, (accessed March 2, 2020) [https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe-lung-disease.html#latest-outbreak-information](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html#latest-outbreak-information)

<sup>33</sup> <https://www.nbcnews.com/health/vaping/tests-show-bootleg-marijuana-vapes-tainted-hydrogen-cyanide-n1059356>

<sup>34</sup> <https://www.nytimes.com/2019/11/08/health/vaping-illness-cdc.html>

<sup>35</sup> “Marijuana and Medicine: Assessing the Science Base,” Institute of Medicine (1999), p. 6. Available at [http://www.nap.edu/openbook.php?record\\_id=6376](http://www.nap.edu/openbook.php?record_id=6376).

<sup>36</sup> Id at 99.

<sup>37</sup> “Predictors of Marijuana Use in Adolescents Before and After Licit Drug Use: Examination of the Gateway Hypothesis,” Tarter, et al. (2006), *American Journal of Psychiatry*. Available at <http://ajp.psychiatryonline.org/article.aspx?articleid=97496>. “Using Marijuana May Not Raise the Risk of Using Harder Drugs,” RAND (2002), published in the *British Journal of Addiction*. Available at [http://www.rand.org/pubs/research\\_briefs/RB6010/index1.html](http://www.rand.org/pubs/research_briefs/RB6010/index1.html). “A Life Course Perspective on the Gateway Hypothesis,” Gundy and Rebellon (2010), *Journal of Health and Social Behavior*. Available at <http://hsb.sagepub.com/content/51/3/244.abstract>.

<sup>38</sup> William Martin, “Does marijuana use lead to harder drugs?,” *Houston Chronicle*, April 30, 2015, available at <http://www.chron.com/opinion/outlook/article/Martin-Does-marijuana-use-lead-to-harder-drugs-6234329.php>.

[T]he overwhelming majority of people who use marijuana do not go on to use harder drugs. Of those who do, extensive research has concluded that the causal factors reside not in the drug itself, but in the complex of genetic, social and psychological factors that lead them to seek relief in mind-altering substances in the first place. Prohibition cannot address those problems, but it does serve as a gateway into the criminal justice system, which will make them immeasurably worse.

In addition, available evidence suggests that cannabis is actually an “exit drug” that can help people who are struggling to stop using opioids, other more dangerous painkillers and sleep aids, and alcohol. An international team recently conducted one of the most comprehensive surveys of its kind, which examined 60 studies on cannabis and mental health. According to Zach Walsh, psychology professor at the University of British Columbia and lead author of the study, “Research suggests that people may be using cannabis as an exit drug to reduce use of substances that are potentially more harmful, such as opioid pain medication.”<sup>39</sup>

A survey of 1,000 consumers at an adult-use counter in Denver found that most 65% used cannabis to relieve pain and 74% used cannabis to promote sleep. The abstract notes, “Among respondents taking cannabis for pain, ... most of those taking over-the-counter pain medications (82%) or opioid analgesics (88%) reported reducing or stopping use of those medications. Among respondents taking cannabis for sleep,... most of those taking over-the-counter (87%) or prescription sleep aids (83%) reported reducing or stopping use of those medications.”<sup>40</sup>

Second, opponents often claim that allowing adults to legally use cannabis will result in an increase in teenagers’ cannabis use. That is not borne out in the data. In fact, the most in-depth surveys suggest modest decreases in rates of youth cannabis use in Colorado and Washington, both of which approved initiatives to regulate cannabis like alcohol in 2012. Public health programs can further reduce teen use regardless of the legality of the substance for adults. This is illustrated by the impressive reduction in teens’ tobacco use, which has plummeted 79 percent from its peak in 1997.<sup>41</sup> This was due to strict regulations on cigarette sales and advertising, plus a robust public education campaign. The same can be done for cannabis, and it will likely be more effective when that education is based on real research and not “reefer madness.”<sup>42</sup>

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<sup>39</sup> University of British Columbia, “Marijuana could help treat drug addiction, mental health, study suggests,” *ScienceDaily*, Nov. 16, 2016.

<sup>40</sup> Marcus Bachhuber, Julia Arnsten, and Julia H Arnsten, “Use of Cannabis to Relieve Pain and Promote Sleep by Customers at an Adult Use Dispensary, *Journal of Psychoactive Drugs*,” July 2019

<sup>41</sup> Truth initiative, “youth smoking rate falls to 6 percent,” *available at* <https://truthinitiative.org/news/youth-smoking-rate-falls-6-percent>.

<sup>42</sup> In fact, some studies showed that the propaganda-based program D.A.R.E. actually had a “boomerang effect,” increasing drug use among young people who took it. Rosie Cima, “DARE: The Anti-Drug Program That Never Actually Worked,” *Priceonomics*, *available at* <https://priceonomics.com/dare-the-anti-drug-program-that-never-actually/>.

Finally, a book entitled *Tell Your Children: The Truth About Marijuana, Mental Illness, and Violence* by Alex Berenson has received a lot of media attention. The central claim of Berenson's book is that marijuana legalization will result in an increase in psychosis and violence in America. Berenson's claims are rooted in cherry-picked data and presenting correlation as causation. I would like to draw your attention to two key points rebutting these claims.

First, Berenson cites a 2017 report by the National Academies of Sciences, Engineering, and Medicine as evidence that marijuana use causes schizophrenia. That claim is a massive misinterpretation of the report. In fact, the claim was rebutted by Ziva Cooper, a committee member of the study, in a series of tweets. According to Cooper, that study did **not** conclude that cannabis causes schizophrenia, but rather that they found an association between cannabis use and schizophrenia.<sup>43</sup> Cooper wrote, "Since the report, we now know that genetic risk for schizophrenia predicts cannabis use, shedding some light on the potential direction of the association between cannabis use and schizophrenia."

Moreover, the National Academies of Sciences, Engineering, and Medicine report itself noted, "In certain societies, the incidence of schizophrenia has remained stable over the past 50 years despite the introduction of cannabis into those settings."<sup>44</sup> Surely, if marijuana use caused schizophrenia, that would not be the case.

Cannabis is not harmless, but the risks pale in comparison to alcohol. Consumers should be educated on the potential risks of cannabis, and HB 32 provides that an informational handout or label be made available to each consumer that includes information about the potential harms of cannabis.

Second, Berenson points out that the first four states to legalize cannabis — Alaska, Colorado, Washington, and Oregon — have seen an increase in murder rates since 2014 when the first adult-use cannabis sales began. What Berenson fails to mention is that FBI data shows that murder rates increased in 40 states during that time, and the top five percentage increases were in states that have not legalized marijuana. Meanwhile, government data also shows homicides *decreased* since marijuana was legalized in 2016 in California (which has more residents than all of the other legalization states combined).<sup>45</sup>

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<sup>43</sup> "Popular book on marijuana's apparent dangers is pure alarmism, experts say." *The Guardian*. Feb. 17, 2019. Available at <https://www.theguardian.com/society/2019/feb/17/marijuana-book-tell-your-children-alex-berenson>.

<sup>44</sup> "The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research." National Academies of Sciences, Engineering, and Medicine, 2017. Available at <https://www.ncbi.nlm.nih.gov/books/NBK425748/>.

<sup>45</sup> <https://oag.ca.gov/news/press-releases/attorney-general-becerra-releases-2017-california-criminal-justice-data-reports>

Furthermore, in a 2019 recent paper using regression analysis, a University of Washington researcher wrote, “Results indicate that the legalization of marijuana, both recreational and medical, does not increase violent crime rates. In contrast, marijuana legalization could lead to a decline in violent crime such as homicide, robbery and aggravated assault.”<sup>46</sup> Again, there is no causation that can be drawn between marijuana and increases in violent crime.

## **VII Amending SB 708 to mirror HB 32**

SB 708 mirrors many of the provisions of Delegate Jazz Lewis’ HB 32. However, we believe that SB 708 offers fewer opportunities for new small and minority-owned businesses and less funding for social equity start-up and community reinvestment, among other differences.

Here are some of the most significant changes we recommend, to mirror the HB 32 reprint:

**MPP urges SB 708 to be amended to uncap the number of micro-cultivation social equity licenses to be issued in 2023.** HB 32 allows for uncapped social equity micro-cultivation licenses (of up to 5k square feet) to be issued early in 2023. By contrast, SB 708 only allows for 15 micro-cultivation to be issued in the social equity round. Capping micro-grow licenses reduces opportunities for small and minority-owned businesses and will prevent social equity producers and retailers from knowing they will be able to secure a cultivation license to ensure supply. This would put these new small businesses at a significant competitive disadvantage compared to large, vertically integrated growers they would have to depend on for supply.

### **MPP urges SB 708 to be amended to allow for more retailers to be licensed in 2023**

With proposed amendments, HB 32 would license 100 new retailers in 2023 geographically distributed across the state by population. (As-introduced, HB 32 allowed 200.) In contrast, SB 708 currently only allows 47 new retailers in 2023. Only 47 new retailers in 2023 would mean far fewer opportunities for social equity applicants. It would also mean patients and other consumers would have to travel further and have fewer choices of cannabis. This would also likely lead to more illicit market activity.

### **MPP urges the tax rate proposed in SB 708 to be amended**

SB 708 includes a lower tax rate than Delegate Jazz Lewis’ HB 32. As introduced, HB 32 included a total tax rate of 29% — 20% excise, 6% standard sales, and 3% local

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<sup>46</sup> Anjelica Rice, "A Blunt Look at the Impacts Marijuana Has on Violent Crime," Research Works Archive, 2019.

option. HB 32's February 16 reprint includes a middle ground, providing that, in years 1-2 of adult-use sales, a 15% excise sales tax will be imposed; it would increase in years 3-4 to 20%, and cap at 25% after that. Rates would automatically increase, but the commission could recommend changes. Localities may also impose a 3% sales tax. SB 708 provides that in years 1-3 of adult-use sales, a 10% excise tax would be imposed; it would increase in years 3-5 to 15%, and cap at 20% after that. The same 3% local sales tax applies.

In comparison, Virginia's bills include 30% in retail tax — which is higher than HB 32's highest possible tax rate of 28%. New Jersey's tax rate rises as prices drop. Its rates could be over 46% when prices drop below \$150/ ounce.

We have seen that cannabis prices drop substantially after legalization. As long as Maryland has a competitive cultivation market with enough supply, pursuant to our recommendations, the price to the consumer will still be significantly lower than the illicit market.

Lower tax rates mean less revenue to fund automatic expungement, community reinvestment, HBCUs, cannabis training, and other state needs.

## **VIII Conclusion**

Thank you Chair Kelly and members of the committee for your time and attention. I respectfully urge a favorable report of SB 708 with amendment to mirror the HB 32 reprint to legalize, tax, and regulate cannabis for adults 21 and older.

If you have any questions or need additional information, I would be happy to help and can be reached at the email address or phone number below.

Sincerely,

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