



January 18, 2021

HB 324

Testimony from Olivia Naugle, Legislative Analyst, MPP, in support of HB 324

Dear Chairman Clippinger, Vice Chair Atterbeary, and members of the Judiciary Committee:

My name is Olivia Naugle and I am a legislative analyst for the Marijuana Policy Project (MPP), the largest marijuana policy reform organization in the United States. MPP has been working to improve marijuana policies for 25 years; as a national organization, we have expertise on the approaches taken by different states. MPP is also the convening organization of the Maryland Cannabis Policy Coalition, a diverse group of organizations that is working to advance and sensible humane marijuana policies.

I am here today in support of HB 324, which would increase the amount of marijuana decriminalized in Maryland from 10 grams to 1 ounce (28.5 grams). Under HB 324, possession of between 10 grams and an ounce of marijuana would be punishable by a \$100 civil fine rather than a criminal penalty and potential jail time.

HB 324 also provides that a person may not be charged with possession with intent to distribute based *solely* on possession of one ounce or less of marijuana. If there is other evidence that a person was indeed distributing, they may still be charged with possession with intent to distribute.

While MPP supports the advancing of HB 324, we strongly encourage the General Assembly to legalize and regulate cannabis for adults 21 and older this year. Only through legalization can the state fully address the harms caused by prohibition and begin to repair the decades of harm cannabis prohibition has cause—particularly in communities of color.

I.) The current 10-gram possession limit is too low

Maryland has one of the lowest thresholds for possession of any of the 31 states that has decriminalized or legalized cannabis. In fact, the only state with a lower threshold is Hawaii at just 3 grams.¹ Most states have decriminalized or legalized up to one ounce, and several states have decriminalized larger amounts.

¹ See <https://www.mpp.org/assets/pdf/issues/decriminalization/State-Decrim-Chart.pdf> (Missouri also decriminalized possession of up to 10 grams in 2014.)

Last year, Virginia lawmakers decriminalized up to an ounce of cannabis, at set the fine at up to \$25. Neighboring Delaware's 2015 decriminalization law also covers up to an ounce.

Meanwhile, Ohio has decriminalized 30 grams (about 3.5 ounces) or less, both Michigan and Maine have legalized possession of up to 2.5 ounces for adults, and in neighboring D.C. adults may possess up to 2 ounces legally. Following voters' overwhelming approval of a vague constitutional amendment to legalize cannabis, New Jersey's legislature recently approved a bill that would set the legalization limit at 6 ounces.²

Increasing the threshold from 10 grams to one ounce would put Maryland close to other states that have stopping jailing their residents for simple marijuana possession.

II.) Arrests for marijuana possession have continued post-decriminalization in 2014

Due to its low limit, Maryland has continued to see arrests, with staggering racial disparities, for those exceeding the possession limit after its decriminalization law took effect in 2014.³ In Baltimore City, there were nearly 1,500 arrests for marijuana possession in 2015, 2016, and 2017; of those arrestees, 96% were Black.

Currently, possession of between 10 grams and 1 ounce of marijuana is a criminal offense, punishable by up to 6 months in jail and/or a fine of up to \$1,000. Arrests for simple possession can be traumatic, and a criminal conviction carries life-altering collateral consequences. Disparate enforcement of marijuana laws means that these harsh collateral consequences disproportionately affect people of color.

HB 324 is an important and just reform that would reduce the number of arrests and criminal charges for simple marijuana possession.

III.) If legalization is not passed this year; Maryland should move forward with this sensible policy now, and reduce the fine to \$25

Decriminalizing one ounce of cannabis in Maryland is an important reform that is long overdue. However, this policy improvement is just one step in the right direction. I encourage the General Assembly to first consider the more comprehensive and equitable approach —legalizing and regulating cannabis for adults.

² Gov. Murphy has not agreed to sign the bill due to another issue — the question of penalties for minors possessing marijuana. But this is not the point of controversy so it appears extremely likely that the possession limit will be six ounces.

³ "Structural Racism and Cannabis: Black Baltimoreans still disproportionately arrested for weed after decriminalization," *Baltimore Fishbowl*, December 28, 2018, <https://baltimorefishbowl.com/stories/structural-racism-and-cannabis-black-baltimoreans-still-disproportionately-arrested-for-weed-after-decriminalization/>

Decriminalizing simple marijuana possession without enacting broader reforms— legalization and regulating cannabis for adults— leaves many serious issues unresolved, including a still-illegal market for the production and sale of cannabis.

By legalizing and regulating cannabis for adults, Maryland can *further* decrease the number of cannabis-related arrests and engagements with law enforcement and displace the illicit cannabis market with a tightly regulated system where cannabis is produced and sold by legitimate businesses. A regulatory framework allows for requirements for testing to ensure quality control, including by ensuring cannabis and cannabis-infused products are accurately labeled for potency. Further, businesses would be required to rigorously check IDs to prevent sales to minors. Finally, without fully legalizing and regulating cannabis, Maryland will miss out on the added economic benefit of creating a new source of tax revenue and jobs.

Importantly, communities of color have borne the brunt of cannabis prohibition. Post-decriminalization, Black Marylanders are twice as likely than their white counterparts to be arrested for cannabis possession.⁴ Legalizing and regulating cannabis for adults can seek to address the decades of harm these individuals and communities have faced by including provisions to automatically expunging past cannabis convictions, ensure industry inclusion by those who have been disproportionately impacted by prohibition, and reinvest tax revenue from the legal industry into those communities.

If the General Assembly does not legalize cannabis this year, it should swiftly approve this legislation, HB 324, so that Maryland does not continue to criminalize its residents for simple possession while 15 states—including red states Montana and South Dakota—have fully legalized simple possession. We also urge it to be amended to reduce the fine to up to \$25, to mirror Virginia’s more reasonable penalty.

Thank you Chairman Clippinger, and members of the committee for your time and attention. I respectfully urge a favorable report of HB 324.

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

Sincerely,

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⁴ A Tale of Two Countries: Racially Targeted Arrests In The Era of Marijuana Reform. ACLU. 2020 see: https://www.mpp.org/assets/pdf/issues/criminal-justice/tale_of_two_countries_racially_targeted_arrests_in_the_era_of_marijuana_reform.pdf

