



Maryland

Senate Finance Committee

Testimony: S.B. 516 Emergency Bill – Cannabis Reform

Position: Informational Only

Michelle Minton, Senior Policy Analyst, Reason Foundation

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Chairperson Griffith and members of the committee:

My name is Michelle Minton. I am a Maryland resident and senior policy scholar at Reason Foundation, a 501(c)(3) nonprofit, nonpartisan public policy research organization. Among other things, Reason Foundation is committed to ensuring state-regulated cannabis markets are designed to be dynamic and offer genuine economic opportunities to individuals from a range of backgrounds. After reviewing Senate Bill 516, we believe the measure does many things well but could be improved to better benefit Maryland residents. We are grateful for the opportunity to provide our recommendations for the record.

With an initial proposed sales tax of six percent, hundreds of licenses available, flexibility in the types of cannabis businesses eligible for licensure, reasonable application and license renewal fees, and certain legal protections for consumers and businesses, we believe that S.B. 516 could set the stage for a vibrant adult-use cannabis market which promotes the transition of legacy suppliers into the regulated marketplace. That said, there are some aspects of the bill we believe could be improved.

Advocates for social equity within the cannabis industry reasonably demand restorative justice measures to compensate individuals and communities for decades of discriminatory government action related to cannabis and drug prohibition. However, states that have included social equity provisions within their cannabis legalization and regulatory frameworks have typically failed to target relief toward direct victims of the drug war; those arrested or convicted for cannabis offenses, as well as their families, who have borne the collateral consequences of those convictions, such as barriers to employment, higher education, or small business loans.

While there is substantial evidence that the discriminatory prosecution of the war on drugs has had broad social impacts, programs that fail to restrict eligibility for social equity benefits to direct victims of the drug war create loopholes that allow third parties to intercept benefits intended for direct victims of drug prohibition. This occurred in Illinois, for example, which allowed businesses to qualify as social equity applicants by merely pledging to employ six or

more employees from disproportionately impacted areas, leading to a situation in which the state's only social equity dispensary is owned by "wealthy and connected insiders."¹

In its current draft, S.B. 516 avoids the mistake made by Illinois and other jurisdictions, instead basing social equity eligibility on the individual's past residency or public school attendance in disproportionately impacted areas of the state. Yet, even this remains overly broad, potentially diverting benefits that could assist direct victims of drug criminalization to individuals who lived nearby.

Maryland's approach to social equity eligibility in S.B. 516 is similar to that taken by other states, like New York. The difference, however, is that S.B. 516 would, assuming available licenses are granted at a reasonable pace, create significantly fewer barriers to entering the legal market. This is critical because, as New York and New York City, in particular, have discovered, high barriers to entry lead to perverse consequences which hamper diversity and may encourage law enforcement practices that perpetuate the harms of the drug war.²

We believe the relief intended by the social equity provisions of this bill would be better served by reserving a larger portion of the collected revenue for such direct benefits. Currently, S.B. 516 directs 30 percent of the revenues from adult-use cannabis to be allocated to the Community Reinvestment and Repair Fund to provide funding for "community-based initiatives intended to benefit low-income communities" and community-based initiatives that "serve communities disproportionately harmed by the cannabis prohibition and enforcement." that serve communities. A potential pitfall of diverting this large of a portion of cannabis revenues to the fund is that the goals of such programs are ill-defined and measuring success is difficult. Worthy as these goals may be, exacting accountability from grant recipients to pursue these goals may become challenging.

As such, we strongly encourage lawmakers to invest a larger portion of revenue into direct assistance for immediate victims of discriminatory drug laws and enforcement. Moreover, we recommend adding greater specific criteria for the types of community-based initiatives and activities eligible for Community Reinvestment and Repair Fund allocations to prevent waste, abuse, or diversion of funds to benefit victims and restore communities harmed by the drug war.

- Recommendation #1: Consider revising the language to limit social equity applicants and recipients to direct victims of drug law enforcement and their immediate families.
- Recommendation #2: Convert a portion of the 30% tax revenue currently designated for the Community Reinvestment and Repair Fund into direct payments or assistance for victims of cannabis prohibition or the war on drugs.

¹ Robert McCoppin, "Illinois issues first two social equity marijuana dispensary licenses, and one shop expected to open soon in River North," Chicago Tribune, 10 November 2022.

<https://www.chicagotribune.com/marijuana/illinois/ct-illinois-marijuana-gri-dispensary-20221110-uiwr2rq42vb25mqw27proxcan-story.html>.

² Geoffrey Lawrence, "Reason Foundation,

- Recommendation #3: Include specific criteria for the types of community-based organizations, initiatives, and activities that qualify for Community Reinvestment and Repair fund allocations.

Another potential problem is the high license conversion fee proposed by this legislation which, at the high end, could be as much as \$2.5 million. We understand that the fee is intended to fund regulatory costs and limit early access to the market to established firms and will not be a recurring cost. However, this is much higher than the conversion fees that states like Connecticut (\$750,000 to \$1 million), Illinois (\$750,000), and Rhode Island (\$125,000) charge for converting medical licensees to dual-use facilities. We fear the proposed rate sets an extraordinarily high barrier to entry that will discourage conversion and deprive adults in Maryland of access to legal options for cannabis consumption.

Lastly, we ask members to consider adding to the legal protections currently listed within the bill to better protect immigrants, individuals who are or might become pregnant, parents, and legacy cannabis suppliers from law enforcement or government interference related to the use, possession, or trade of cannabis among adults.

There are many promising aspects of Senate Bill 516, including a competitive tax rate assessed on retail transactions only, a significantly sized pool of licenses, and legal protections for cannabis consumers and businesses. We hope lawmakers address the few issues addressed in this testimony to ensure Maryland's adult-use cannabis market is dynamic and beneficial for all residents of our state on opening day.

Michelle Minton

Senior Policy Analyst, Reason Foundation

Michelle.Minton@reason.org