

March 30, 2023

Testimony on HB 1071
Criminal Law and Procedure - Cannabis - Fines for Smoking in Public, Stops, and Searches
Judicial Proceedings

Position: Favorable w/Amendments

Common Cause Maryland is in strong support of HB 1071.

After decades of proof of the economic and racial harm deliberately caused by marijuana criminalization and enforcement, Marylanders have voted to legalize adult use and possession of the substance. While this represents a major step forward in repairing the harms done by the “war on drugs,” dangerous loopholes that can be used to racially profile Black and Brown Marylanders and violate their Fourth Amendment protections. One of the more egregious loopholes is the power of the police to conduct investigatory stops and vehicle searches based solely on the belief that they smelled marijuana.

Marijuana odor has been used as a loophole to justify racial profiling, intrusive searches, and police escalation for far too long. As we move towards legalization, our legislators have a duty to ensure that the smell, or perception of a smell, of a soon-to-be legal substance cannot be used to justify a stop and search of an individual or their vehicle.

We also urge the committee to codify an exclusionary rule that would bar evidence obtained in violation of the statute from being used in criminal proceedings, rather than a provision that would leave discretion up to judges to decide if such evidence should be admissible. This rule is sorely needed to deter violations of the statute and provide some form of redress for victims of illegal searches.

For the above reasons, we urge the committee to issue a favorable report with the aforementioned amendment on HB 1071.