

APPENDIX

Rory Joseph Wells, Esq.

Founding Partner, GoldmanWells Legal Group

331 Newman Springs Rd, Suite 225

Red Bank, NJ 07701

C 732.947.0300

Former Assistant Prosecutor/Community Relations Officer

Ocean County Prosecutors Office

Thank you to the honorable members of the New Jersey Legislative Black Caucus for convening this important hearing. It is my privilege to appear here today and provide remarks for your consideration. I also want to acknowledge our host, Cityline Church, in addition to the dignitaries and community members in attendance.

My family lineage dates back over 130 years in our state of New Jersey. Initially in Newark and then Belleville where I was raised. I am not an outside interest. This is the state where I was born, and this is the state where I will die.

I am African American. I served my country as a young officer in the Marine Corps, and I served the citizens of Ocean County and the state of New Jersey as an Assistant Prosecutor for nearly thirteen years. Any one that knows me could speak of my deep concern for our citizenry. My testimony is provided against the legalization of recreational marijuana, retail sales, home grows and cultivation sites.

The first two states to allow sales of legalized recreational marijuana were Colorado and Washington in January of 2014. This means ***the legal recreational industry in this country is just over 48 months old.*** It is simply impossible to say this is a success with so little time for observation. Colorado was first to legalize recreational marijuana and their claims of a financial windfall are indeed great. In the process of chasing the money however, they have destroyed their brand. When speaking of Colorado no one mentions their, restaurants, skiing, universities or entertainment. Now when someone hears the words "Denver Colorado", anywhere on the planet they think of one thing...

New Jersey has spent decades promoting the Jersey Shore, our tomatoes, blueberries and sweet corn - the Jersey City Waterfront, the New Jersey Performing Arts Center, our museums, the diversity of our food and so many other great things about our state. Are we prepared to trade this for Marijuana Tourism and "420" celebrations?

The homeless situations in Denver and Seattle have been a growing problem for years. This difficult situation has clearly been exacerbated by migrants coming into the cities to use the drug legally and with dreams of getting in on the market. We must ask ourselves; are we prepared to handle an influx of additional homeless people attracted to marijuana sales in Newark, Patterson, Jersey City, or Trenton? Does Atlantic City and Camden have the resources to provide for dozens if not hundreds of new homeless migrants living on their streets?

I am not here to argue that smoking or ingesting Marijuana is the worst drug you can put in your body, its not. And people with lots of resources and those in gated communities will always make out just fine. I am arguing that passing recreational use and sales would degrade the quality of life and alter the fabric of our communities in a way we would not be able to reverse.

Who will stand in the gap for the poor and most vulnerable? Are we prepared to surrender on this issue? For the individual already struggling with other drugs, alcohol, lottery scratch-offs and nicotine, will we now say "let's add open marijuana sales to your problems". Our goal should be a healthy, sober, prosperous, successful populace. Legalizing a drug that makes you high, slows your response time, makes you less efficient and affects your memory runs contrary to that goal.

I believe this is a revenue source we should pass on. There is a large subculture that has grown around the glorification of Marijuana. They smoke it, eat it, collect it, write songs, make movies and create art dedicated to the worship of this plant. It breaks my heart that this is also evidenced in large parts of our African American and Hip-Hop communities. We should continue to focus on academic scholarship, athletics, excellence and commitment in our relationships and the parenting of our children. Forgive me for not celebrating when I am told the answer is more drugs and less consequences for that drug.

Let us watch and learn from the mistakes of other states before rushing in to this generational decision that would be nearly impossible to reverse.

Thank you.

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data. The text also mentions that regular audits are necessary to identify any discrepancies or errors in the accounting process. It is noted that such audits help in maintaining the integrity of the financial statements and provide a clear picture of the company's financial health.

In addition, the document highlights the role of technology in modern accounting. The use of accounting software is recommended to streamline the recording and reporting process. It is stated that these tools can significantly reduce the risk of human error and improve the efficiency of the accounting department. Furthermore, the text suggests that companies should invest in training for their staff to ensure they are proficient in using the latest accounting technologies.

Another key aspect mentioned is the importance of staying up-to-date with changes in tax laws and regulations. The document advises that companies should consult with tax professionals to ensure they are fully compliant with all applicable laws. It is also noted that keeping abreast of industry trends and economic conditions can help in making informed financial decisions. The text concludes by stating that a robust accounting system is essential for the long-term success and sustainability of any business.

The document concludes with a summary of the key points discussed. It reiterates the importance of accurate record-keeping, the use of technology, and staying compliant with regulations. It is a call to action for businesses to take these steps seriously to ensure their financial records are reliable and their operations are sound.

My name is Kristina Ziobro. I am a mother, wife, daughter and businesswoman born and raised in New Jersey. Thank you for inviting me here today and giving me, my husband and my son Michael a voice. This is my story.

“Wake up Michael, wake up” were the words I spoke to my son the evening of April 10th when I went to say good night to him, and instead found him lying on the floor unresponsive and not moving.

From that second on, that evening was a blur. I immediately knew something was wrong, very very wrong. I ran to get my husband and called 911. We started CPR and waited for the EMTs to arrive. Neighbors, firemen, policemen, EMTs all showed up – but no one could save Michael. He was gone.

We would eventually know why: it was arrhythmia, induced by cannabis with 28% THC (Tetrahydrocannabinol refers to a psychotropic cannabinoid and is the principal psychoactive constituent of cannabis), that caused Michael’s death. Because of this, I am compelled to raise awareness of the considerable risks and implications of smoking marijuana because I don’t believe the public is aware of these dangers. And I feel in my heart of hearts, if Michael knew the full implications of smoking marijuana with high levels of THC, he would be alive today.

I knew Michael smoked pot. It was the only thing - after years and years of going to doctors, specialists and psychologists - that relieved his IBS (irritable Bowel Syndrome) with which he suffered painfully for quite a while. My husband and I did not approve, but after years of seeing Michael in agony, we acquiesced to it because for the first time in ages, Michael was pain free and happy. As a parent isn’t this what we all want for our children?

As time went by, Michael smoked more, maybe once a day, and became not only an advocate of marijuana use, but an evangelist. He researched and studied the history, politics, effects on the body and mind, etc., ad nauseam. He believed, because of what he read in articles, research and media, using pot was safe, natural – a general panacea for many, if not all, ills. At one point, he almost had me and my husband convinced of it, too, so we decided to let it go.

But somehow Michael got his hands on medical marijuana with 24% and 28% THC. Why that level is required and/or even produced is beyond me, but I suppose Michael thought the higher the THC level, the less he had to consume to relieve his pain. If he had only been aware of and known to dig a bit deeper, he would have found studies and research that substantiates how elevated THC levels in marijuana can cause harm – even death. Then he might have recognized his racing heart, when he smoked, was not normal. **If he knew all this he’d be alive today.** And our hearts would not be broken.

Today, more than ever, there is such a push to legalize and legitimize marijuana, and my fear is this is being done without ALL the data being thoroughly vetted and explored, data and facts on the effects of marijuana on the mind, body and soul. I am going public with Michael's story to implore the 'powers that be' to do their homework and broadcast the pros and cons of marijuana use; I'm going public to raise awareness, to prevent another mother from ever having to try and 'wake her child up', and not being able to – ever again.

So why am I here today? I never had an agenda on the legalization of marijuana before Michael died. I was neutral, naïve, like I think most people are, but no more. Now I know:

- Today's marijuana has a higher potency. It comes all sorts forms; gummies, brownies, lollipops, soda, you name it with THC levels of up to 90%+. The pot Michael smoked was 29% THC.
- Legalizing and commercializing marijuana will create the next "Big Tobacco" industry of our time. A new industry of lobbyists and special interests intending to put profits and special interests over public health and safety regulations.
- In states that have legal marijuana, the black market continues to thrive, youth drug use is increasing, state-budget shortfalls continue, and the number of fatal drugged car crashes is skyrocketing.

And now I know people are dying and lives are being destroyed because of marijuana – legal or not. Prescribed or not. That's why I've gone public with Michael's story. I don't want another mother, father, sister, brother, grandfather to go through what we've gone through.

I am also proud to be a part of SAM – Smart Approaches to Marijuana AND NJ-RAMP. Their mission is one I'm in full alignment with; their mission being to envision a society where marijuana policies are aligned with the scientific understanding of marijuana's harms, and the commercialization and normalization of marijuana are no more. A mission to educate citizens on the science of marijuana and to promote health-first, smart policies and attitudes that decrease marijuana use and its **consequences**.

Consequences. They have been pretty high for me and my family. This is why I'm here today and why I am imploring you not to legalize marijuana, here in NJ, or anywhere.

Thank you.

California Minority Alliance

Cannabis Laws Are Racially Biased and We Must Change How We Look for Solutions

The aggressive enforcement of cannabis possession laws needlessly ensnares hundreds of thousands of people into the criminal justice system and wastes billions of taxpayers' dollars. What's more, it is carried out with staggering racial bias. Despite being a priority for police departments nationwide, the 'War on Cannabis' has failed to reduce cannabis use and availability and diverted resources that could be better invested in our communities.

The drug war has produced profoundly unequal outcomes across racial groups, manifested through racial discrimination by law enforcement and disproportionate drug war misery suffered by communities of color.

Many different communities of color bear the impact of the discriminatory enforcement of drug laws. This impact may vary across cities and regions. Nationwide, some of the most egregious racial disparities can be seen in the case of African Americans and Latinos.

Higher arrest and incarceration rates for these communities are not reflective of increased prevalence of drug use, but rather of law enforcement's focus on urban areas, lower income communities and communities of color.

Disparities in arrests and incarceration are seen for both drug possession law violations as well as low-level sales. Those selling small amounts of drugs to support their own drug use may go to jail for decades. This unequal enforcement ignores the universality of drug dependency, as well as the universal appeal of drugs themselves.

It has become clear that the mass criminalization of people of color, particularly young African Americans, is as profound a system of racial control as the Jim Crow laws were in this country until the mid-1960s.

Misguided drug laws and draconian sentencing have produced profoundly unequal outcomes for communities of color.

The Consequences

- People of color experience discrimination at every stage of the criminal justice system and are more likely to be stopped, searched, arrested, convicted, harshly sentenced and saddled with a lifelong criminal record. This is particularly the case for drug law violations.
- Nearly 80 percent of people in federal prison and almost 60 percent of people in state prison for drug offenses are black or Latino.

- Research shows that prosecutors are twice as likely to pursue a mandatory minimum sentence for black people as for white people charged with the same offense. Among people who received a mandatory minimum sentence in 2011, 38 percent were Latino and 31 percent were black.
- Black people and Native Americans are more likely to be killed by law enforcement than other racial or ethnic groups. They are often stereotyped as being violent or addicted to alcohol and other drugs. Experts believe that stigma and racism may play a major role in police-community interactions.
- According to the ACLU, the majority of the people police arrested for cannabis are not kingpins, but rather individuals with small amounts of cannabis.
- Cannabis arrests are not evenly distributed across the population, but are disproportionately imposed on African Americans.
- The ACLU's original analysis shows that cannabis arrests now account for more than half of all drug arrests in the United States.
- Of the 8.2 million cannabis arrests between 2001 and 2010, 88 percent were for simply having cannabis. Nationwide, the arrest data revealed one consistent trend: a significant racial bias.
- Despite roughly equal usage rates, African Americans are nearly four times more likely than Caucasians to be arrested for cannabis. At the same time, African Americans only makeup 12 percent of the population of drug users, yet the NAACP reports that 59 percent of the people incarcerated for drug offenses.
- At the same time, Caucasians are more likely to deal drugs, but African Americans are more likely to be arrested for dealing drugs. Humans Rights Watch has also reported that though 74 percent of regular cannabis users are non-Hispanic whites and 14 percent are black, African Americans make up 30 percent of all cannabis arrests.

The Tricke Down Effects

Punishment for a drug law violation is not only meted out by the criminal justice system, but is also perpetuated by policies denying child custody, voting rights, employment, business loans, licensing, student aid, public housing and other public assistance to people with criminal convictions.

These exclusions create a permanent second-class status for millions of Americans. Like drug war enforcement itself, they fall disproportionately on people of color.

- One in 13 black people of voting age are denied the right to vote because of laws that disenfranchise people with felony convictions.
- One in nine black children has an incarcerated parent, compared to one in 28 Latino children and one in 57 white children.

What It Means for Minorities and Economically Disadvantaged

Nationwide, only about four percent of legal marijuana businesses are black-owned, and just 19 percent are owned by any racial minority, according to a survey by Marijuana Business Daily, a national trade group.

California Minority Alliance believes that it is time to address these wrongs caused by the failed war on drugs. We must begin taking steps to begin to fix the harm that has been done not only to the entire nation, but particularly to people of color and the economically disadvantaged.

In 2016, the Small Business Association (SBA), which aims to help support small businesses so they can create more jobs, guaranteed \$5.1 billion in loans in California last year — most of it through large banks. However, only about 2 percent of those borrowers were African-Americans, a sharp drop from pre-recession levels. Latinos, who own more than 23 percent of businesses in the state, received just 13 percent of those loans.

Officials at the SBA stated that the agency is currently trying to expand its efforts to extend more loans to minority business owners through institutions other than banks, especially in lower-income areas. However, to date, the federal agency has not done much to increase the flow of capital to Latino and African-American businesses, which are an increasing share of the U.S. economy, but are more likely to fail partly because of lower access to capital.

Limited access to private capital can be a major barrier for cannabis companies, which are mostly unable to obtain basic financial services, including a line of credit or a loan.

That is hurting minorities in California, which has some of the country's highest licensing fees for cannabis businesses.

The Ask

CMA has outlined below are several common sense policy reforms aimed at righting some of the wrongs that have been done to minorities in California. We believe it is time to address the income inequality and a legacy of racism tied to cannabis prohibition, which has stunted participation among African-Americans and other racial minorities in California. CMA believes that the legal cannabis industry has a potentially transformational source of wealth for African American communities in California.

- Require 25 percent of California's cannabis licenses to be dedicated to economically disadvantaged;
- Create the Disadvantaged Minority Business Program to help minority residents in California;
 - Create training sessions, where the state assists minorities with essential aspects of starting or maintaining a business, such as acquiring workers and business licenses;
 - Set aside small loans and grants for minorities, who would like to work in the state-legal cannabis marketplace;
 - Step tax incentives for cannabis businesses that provide mentorship programs to minorities;

- Offer a chance for people convicted of nonviolent cannabis crimes in the state by expunging all non-violent cannabis charges dating to 1975 and wipe arrest records clean for individuals who faced such charges.
 - Misdemeanour convictions dating to 1975 and will wipe arrest records clean for anyone who faced such charges.
 - Decriminalize drug possession to remove a major cause of the disproportionate arrest and incarceration of people of color. This would help more people receive drug treatment when appropriate and redirect law enforcement resources to programs that help build healthier communities.
- Eliminate policies that result in disproportionate arrest and incarceration rates. This includes changing police practices, rolling back harsh mandatory minimum sentences, and eliminating sentencing disparities.
- Ending policies that permanently exclude people with nonviolent cannabis convictions from key rights and opportunities. These include barriers to voting, employment, loans, financial aid, child custody, public housing and other public assistance.

###



CALIFORNIA MINORITY ALLIANCE

August 3, 2017

BOARD OF DIRECTORS

Darren Parker

Tyrone Freeman

Matt Haskin

Kathy Smith

Ken Jones

Donnie Anderson

Virgil Grant

Hon. Gwen Moore

Meiko Perez

Richard Polanco

Alice Huffman

LOS ANGELES CITY CLERK'S OFFICE
RICHARD WILLIAMS-LEGISLATIVE ASSISTANT
200 N. Spring Street, Room 360
Los Angeles, CA 90012

EMAIL: Richard.Williams@lacity.org

REFERENCE: COUNCIL FILE NO. 14-0366-S5

In response to said draft ORDINANCE, the California Minority Alliance, a non-profit corporation (CMA) offers the following written comments regarding the development and implementation of the Social Equity Program Process (SEPP). CMA's focused perspective relative to the SEPP program in these comments should not be construed as an expression of the organization's lack of interest, knowledge, or expertise regarding other issues relative to the cannabis industry. That is, many public comments aside from SEPP related issues express in part or whole CMA's agreement or disagreement on the matter. Contrary, the comments specifically related to the SEPP in most cases have been vague and less descriptive. Inasmuch, CMA will provide focus to the SEPP section of **COUNCIL FILE NO. 14-0366-S5**.

The nascent cannabis industry provides opportunities at promoting equitable ownership and employment opportunities that may decrease disparities in social economics for marginalized communities disproportionately impacted by the war on drugs. In other words, the burgeoning cannabis industry in the City of Los Angeles offers the probability of success and longevity of small businesses, resulting in greater employment and tax generation in the communities in which these businesses operate.

By encouraging minority business development in the cannabis industry, the City of Los Angeles has begun to build a base of minority entrepreneurs with strong

CALIFORNIA MINORITY ALLIANCE

1445 CENTURY BOULEVARD, LOS ANGELES, CA 90047

P : (888) 426-2420 | F : (888) 426-2420

www.californiaminorityalliance.com

business skills. Such a reserve has a positive impact on the state and local economies for the purpose of business development.

Studies by the U.S. Small Business Administration and U.S. Department of Commerce indicate that 80 percent of all new independent businesses fail in the first year, and 92 percent of them fail in the first five years. Conversely, only 20 percent of all new businesses fail in the first five years of business premised on socioeconomic predictors. This is attributable to mitigating many of the stumbling blocks of small business ownerships, such as 1) lack of marketing, 2) undercapitalization, 3) patronage and 4) the ability of smaller businesses to compete with larger or pre-existing businesses in the industry.

SOCIAL EQUITY PROGRAM PROCESSING

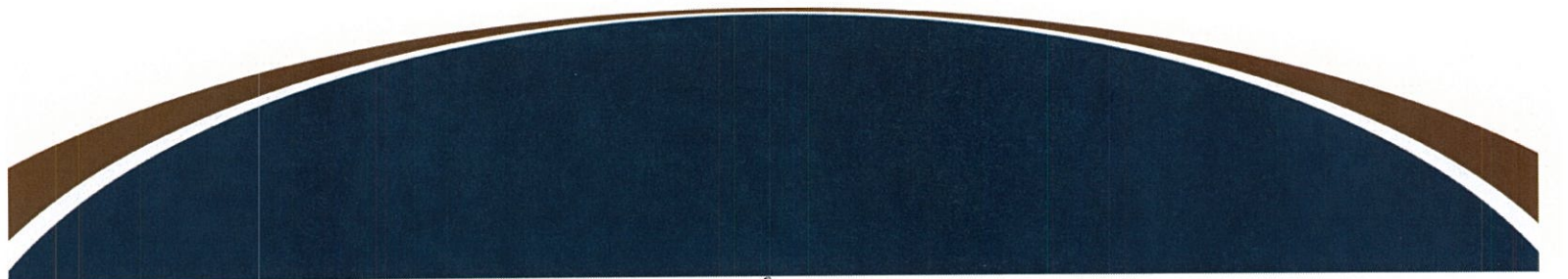
Proposition M established the Social Equity Program Processing (SEPP) to be administered by the City of Los Angeles Cannabis Department. The Department shall provide “equitable ownership and employment opportunities in the cannabis industry in order to decrease disparities in life outcomes for marginalized communities and to address the disproportionate impacts of the war on drugs in those communities.”¹

In this regard, the Department may provide appropriate incentives, preferences, application eligibility criteria, and other development programs it considers appropriate; and provide for any advisory services or technical assistance necessary or desirable to carry out the purpose of the program.

The primary objective of the SEPP is to encourage cannabis industry business formation, create employment, and generate tax revenues for the City of Los Angeles. SEPP is designed to benefit cannabis business development by those disproportionately impacted by the war on drugs.

With the passage of Proposition 209 and the many legal challenges to any government program that preferences race, gender, or ethnicity in California, **CMA supports a race-gender-ethnic neutral means of administering the SEPP program by capitalizing on the large overlap between socioeconomic hardship and those disproportionately impacted by the war on drugs.** To that end, CMA offers class-based SEPP processing model that will contribute substantially toward social equity in the City of Los Angeles cannabis industry.

¹ City of Los Angeles. (2017). *Draft Commercial Cannabis Activity Requirement*. Los Angeles: City Clerk Office



SEPP PROGRAM CONCEPTUAL MODEL

The CMA proposed SEPP module is premised on the context of class-based affirmative action; CMA shall help the Department shape regulations that suit its goals, mitigate any legal challenges, and reflects its social equity program purpose.

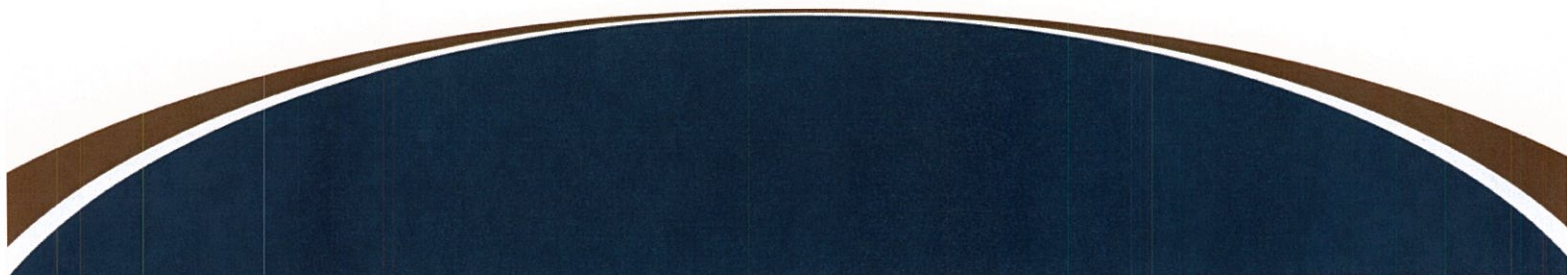
The design of the CMA class-based SEPP module is guided by “socioeconomics.” In service to this vision, the Department seeks to grant special consideration to those communities in which, persons, and business applicants’ face[d] substantial socioeconomic disadvantage within the City of Los Angeles. To do so, two metrics shall be developed- The Disadvantage Index and the City of Los Angeles Area Applicant Preference Index. In this public comment, CMA shall describe these class-conscious applicant indexes conceptually. For a more technical treatment of the statistical models and empirical data that underlie these measures, CMA leaders will consult with City Council and Department staff .

The Disadvantage Index quantifies the socioeconomic obstacles applicants have faced. It identifies applicants whose socioeconomic characteristics have reduced the probability they would benefit from the burgeoning cannabis business, employment, and other related opportunities. The City of Los Angeles Area Applicant Preference Index (CLAAAPI), on the other hand, stimulates economic growth and employment opportunities in designated distressed areas throughout the City of Los Angeles. Building on the work of the Target Area Contract Preference Act (TACPA) - California Government Code, Title I, Division 5, Chapter 10.5, Section 4530 et seq., and California Code of Regulations, Title II, Division 2, Chapter 3, Subchapter 9, Article 1, Sections 1896.30-1896.41, it identifies distressed areas through the state of California.

Disadvantaged Index Conceptual Model

The Disadvantage index is based on either descriptive statistical module relating applicants’ socioeconomic characteristics or to their life experience in the City of Los Angeles Area Applicant Preference Index (CLAAAPI) zone. Socioeconomic characteristics shall be measured at both current and past applicant experience level, and include the following:

1. Applicants native language.
2. Parent status.
3. Family- income level.
4. Percentage of students from applicant’s high school eligible for free or reduced-price lunch (FRL).
5. Educational level.



6. Have siblings residing in CLAAAPI zone for at least three years of the last ten years;
7. Business experience/ownership
8. Percentage of citizens from the applicant's neighborhood council geographical area on Medicaid.
9. Applicant owner/ownership²
10. City of Los Angeles Resident
11. Applicant lived in any combination of CLAAAPI zones for at least 7 of the last 21 years
12. Was arrested after November 5, 1996, and convicted of a cannabis crime committed in City of Los Angeles
13. Was arrested after November 5, 1996, and convicted of non-violent, non-drug related crime committed in the City of Los Angeles within the CLAAAPI zone or adjacent areas as defined.

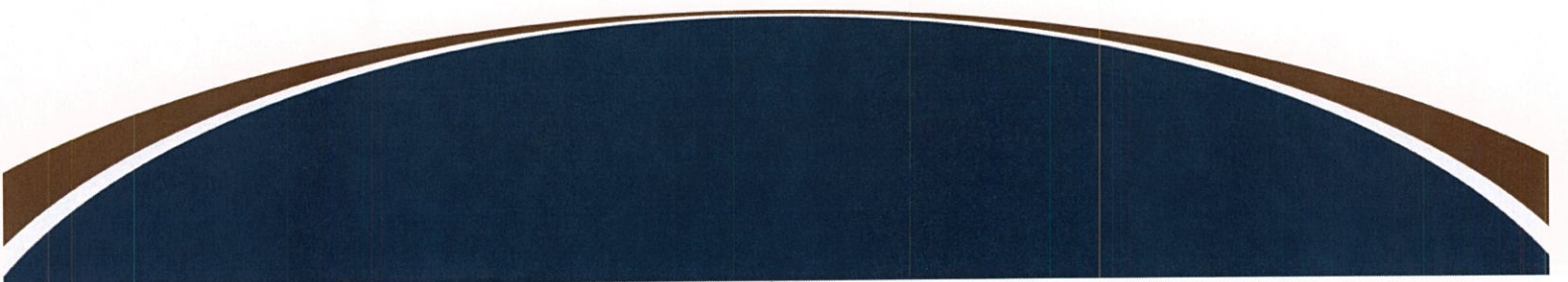
Thresholds shall be established along the index's characteristic scale to form successive categories of disadvantage (none/moderate/severe). This step shall be taken because the index characteristic's scale may be unfamiliar to a Department applicant reviewer, who has not experienced the impact of the war on drugs directly or in their community of residence, thus, defining categories shall help staffers understand which values represented substantial disadvantage due to the impact of the war on drugs. These thresholds shall be set in consultation with CMA familiar with the socioeconomic makeup of the SEPP applicant pool.

City of Los Angeles Area Applicant Preference Index

The index is based on the premise of the TACPA program established to stimulate growth and employment opportunities. That is, the City of Los Angeles shall establish a preference of issuing cannabis licensure to applicants who have residency (or have had a residence for a consecutive period) and business applicant locations in the Los Angeles area designated distressed areas as defined by TACPA or some variation thereof.

Socioeconomic characteristics of this index shall be measured as followings:

² "Ownership" shall mean the individual or individuals who: (i) with respect to not for -profit entities, including without limitation a non-profit corporation or similar entity, constitutes or constitute a majority of the board of directors; (ii) with respect to a collective has or have a controlling interest in the collective's governing body; (iii) with respect to for-profit entities have ownership interest of 40% and Chief Executive Officer or ownership interest of 50% or more



1. Worksite/Residency

To qualify for a CLAAAPI preference (SEPP processing) the business must be located directly in a City of Los Angeles eligible distressed area(s), located directly adjoining/adjacent, or contiguous to a valid TACPA Census Tract & Block Group boundary (GC4532); or,

To qualify for a CLAAAPI preference (SEPP processing) the applicant whose ownership/owner must at the time of the application submittal have residency in a City of Los Angeles eligible distressed area(s), located directly adjoining/adjacent, or continuous to a valid TACPA Census Tract & Block Group boundary (GC4532).

The Department shall award a 50% preference (on application fees) to applicants/businesses that demonstrate and certify under penalty of perjury that they are in compliance with this index characteristic.

2. Workforce

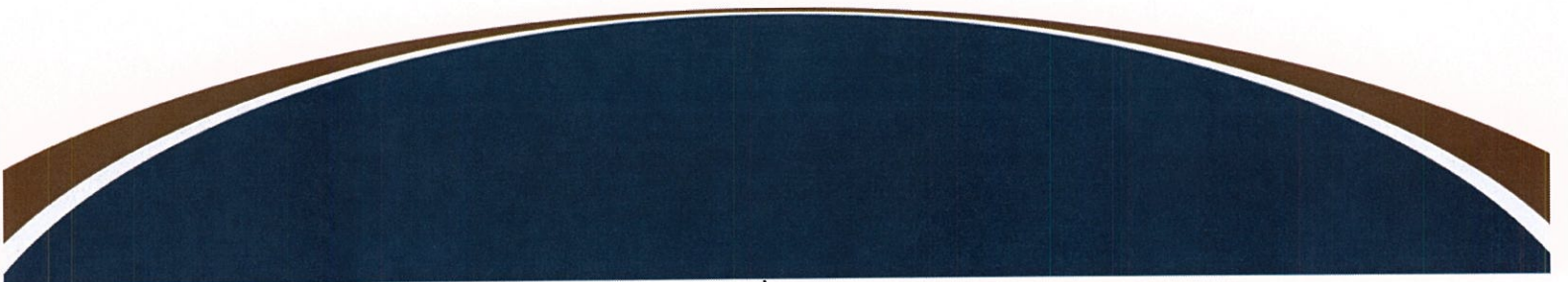
Applicants shall receive an additional workforce preference of 20% if the applicant certifies under penalty of perjury to hire persons with high risk of unemployment equal to 35% of its workforce during the first two years following the issuance of license(s).

3. Corporate Social Responsibility

Applicants shall certify under penalty of perjury to contribute no less than %.05 of their licensed cannabis business annual budget to either a community beautification project within 799-foot radius related to a School, Public Park, Public Library, and Alcoholism or Drug Abuse Recovery or Treatment Facility or any other cannabis licensed facility; neighborhood council projects (in which the business operates, or church.

4. Insurance

Applicants shall be fully insured with no less than \$2 million dollars aggregate. That is, applicants must have “cannabis” as the understood product insured. This will assist in growing the valuation of the disadvantaged communities relative to business attractiveness. Policies



shall at minimum have no break in operations coverage or somewhat similar requirements.

Applicants identified by the Disadvantage or CLAAAPI Indexes shall be granted **PRIORITY** review and consideration in the SEPP process. In addition, they shall be given a boost in the SEPP investment “funding projects” process. The size of boost depends on the level of disadvantage(s). In some cases, identification by the indexes can constitute a primary factor for SEPP processing. When an applicant exhibits no CLAAAPI compliance or low disadvantage, the applicant moves to the GENERAL PUBLIC PROCESSING.

Given sufficient disadvantage, CLAAAPI or both, the class-based application process (SEPP program) can be quite substantial in addressing social equity in the cannabis industry.

II. SOCIAL EQUITY PROGRAM INVESTMENT FUND

The Department in meeting the goals of the social equity program shall encourage business formation, create employment, and generate tax dollars in the CLAAAPI zones through financial and technical assistance to SEPP licensed applicants.

The Department shall establish a **SEPP INVESTMENT FUND (SEPPIF)** overseen by the Cannabis Commission that will utilize investment vehicles that include without limitation, notes, subordinated debt with and without equity options, preferred stock, limited partnership and investment guarantees.

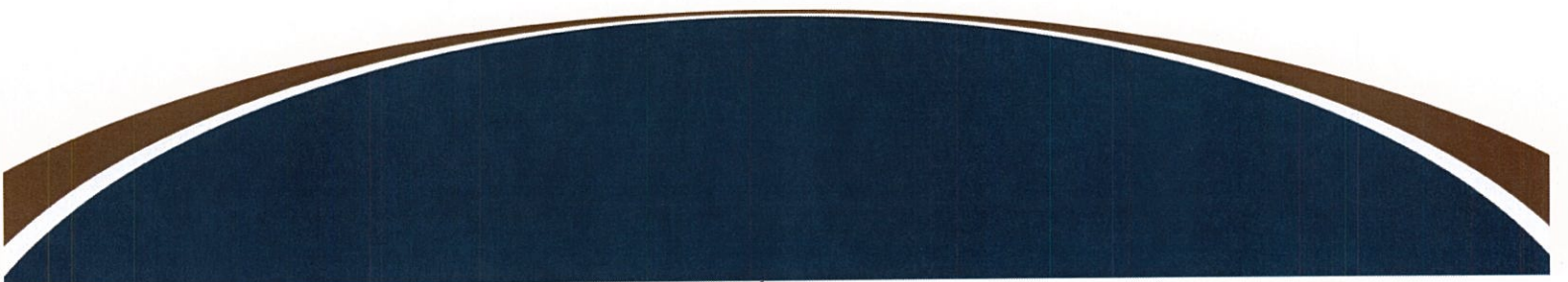
SEPPIF’s investment shall be limited to forty-five (45) percent of the total capital needed or \$100,000, whichever is less. SEPPIF should be used to compliment not replace, other sources of funds.

SEPPIF should make investments and loans with terms ranging from two (2) to seven (7) years.

FUNDING PROJECTS

The Cannabis Commission would normally approve the funding of:

- Working capital requirements
- Purchase of inventory
- Construction or major renovation
- Marketing expense
- Leasehold improvements



- Furniture and fixtures

NOTE. Applicant must meet the disadvantage criteria of “severe” and operate in a CLAAAPI zone.

Additionally, the SEPPIF shall spend at least 15% of funds collected on corporate social responsibility aimed at preventing the use of cannabis targeted at youth between the ages of 10-15.

The revenue for the investment fund shall be acquired by a 1% service fee on industry gross receipts (paid by licensees) beginning in 2019.

All projects submitted to SEPPIF shall be evaluated considering the following factors:

- Adequacy of the proposed capital structure
- The equity contribution of the principles and others
- Fulfillment of SEPP purpose

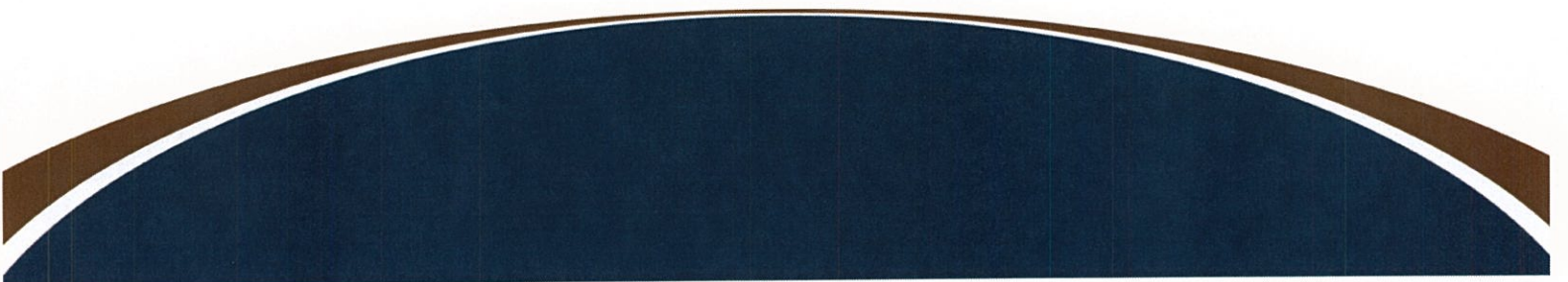
III. SEPP INCUBATOR PROGRAM

The Department shall establish an equity incubator program overseen by the Cannabis Commission with the goal of assisting to SEPP applicants and licensees. The SEPP incubator program shall consist of the following:

- Training/ Education components focused on business development, management skills, industry intelligence, etc., and; other industry business competencies.
- Workshops/Seminars, business locations, and other operational assistance.
- Mentorship/ Business-to-Business networking and more.

The same Department reviewer shall process general public applicants that serve as incubators for SEPP applicants at the same time as the SEPP applicants. General applicants shall meet **all** of the following conditions in order to be process during the SEPP period:

1. Provide free rent or real estate for no less than five years (agreement in writing).
2. The general applicant must comply with all licensing requirements.



3. The general applicant shall not hold any ownership interest in the SEPP applicant business.
4. Comply with the SEPP's *corporate social responsibility, insurance, and workforce provisions.*

CMA is appreciative of your time in this matter; should you have any questions, please contact us at info@californiaminorityalliance.com.

Donnie Anderson, President
CMA

Virgil Grant, Secretary
CMA

Tyrone Freeman, Executive Director
CMA

**Written Testimony
New Jersey Legislative Black Caucus
February 22, 2018**

Kevin A. Sabet
President, Smart Approaches to Marijuana (SAM)
<http://www.learnaboutsam.org>

This testimony is based on my own expertise and that of over a dozen top scientists who serve on the Advisory Board of Smart Approaches to Marijuana (SAM). Co-founded by former U.S. Representative Patrick Kennedy, SAM is the leading non-partisan, non-profit national organization offering a science-based approach to marijuana policy.

I have studied, researched, and written about drug and criminal justice policy for more than 20 years. Most recently, from 2009-2011, I served in the Obama Administration as a senior drug policy advisor. I am currently the co-founder, with former Congressman Patrick J. Kennedy, of SAM (Smart Approaches to Marijuana). I am also the Director of the Drug Policy Institute at the University of Florida, an Adjunct Professor at Yale University, and the author of *Reefer Sanity: Seven Great Myths About Marijuana*.

The legalization of marijuana is bad policy and should be opposed. A study SAM has just undertaken in Connecticut found that the costs associated with marijuana legalization would total \$216 million, compared to an estimated \$113.6 million in projected tax revenue. In other words, marijuana's costs exceed the revenue by over 90%. This reflects a previous study SAM conducted in Rhode Island that found even a limited subset of marijuana legalization's costs will total \$61.2 million for the state in 2020—over 25 percent more than revenue projections made by marijuana activists. (Copies of these studies are attached to this testimony.)

Legalization presents major public health and safety problems for New Jersey and will result in many other negative consequences, for six main reasons:

- (1) Legalization would disproportionately affect lower-income communities of color
- (2) Legalization would increase drug use among New Jersey kids;
- (3) Legalization would be a strain on New Jersey's budget;
- (4) Legalization will reinforce, not diminish, the black market for marijuana, especially because the amounts allowed for home grows are excessive;
- (5) Legalization will aggravate drugged driving, creating costs likely to outweigh revenues;
- (6) Legalization would be a burden for New Jersey's employers and business community;

A. Public health impact

The addictive nature and negative health effects of marijuana are numerous. A 2017 report by National Academy of Sciences (NAS) written by top scientists, entitled *The Health Effects of Cannabis and Cannabinoids: Current State of Evidence and Recommendations for Research*,

concluded after a review of over 10,000 peer-reviewed academic articles, that marijuana use is connected to a number of problems, including:

- respiratory problems;
- mental health issues (like psychosis, social anxiety, and thoughts of suicide);
- increased risk of car accidents;
- progression to and dependence on tobacco, alcohol, and other drugs;
- learning, memory, and attention loss (possibly permanent in some cases);
- and low birth weight.¹

A study from March 2017 stated that “clear associations exist between cannabis use status in young adulthood and subsequent mental health and substance use.”² Given these findings, expanding the use of marijuana would be irresponsible.

Notably, NAS report also stated that, “in states where cannabis use is legal, there is increased risk of unintentional cannabis overdose injuries among children.”³

Since Colorado, Washington, Oregon, Alaska, and the District of Columbia (Washington, DC) legalized marijuana, past-month use of the drug has continued to rise above the national average among youth aged 12–17 in all five jurisdictions (National Survey on Drug Use and Health [NSDUH], 2006-2016). Alaska and Oregon are leading the nation in past-year marijuana use among youth aged 12–17 (NSDUH, 2006-2016). As you will hear, Colorado currently holds the top ranking for first-time marijuana use among youth, representing a 65% increase in the years since legalization (NSDUH, 2006-2016). Young adult use (youth aged 18–25) in legalized states is increasing (NSDUH, 2006-2016).

In Anchorage, school suspensions for marijuana use and possession increased more than 141% from 2015 (when legalization was implemented) to 2017.⁴ Washington state law enforcement has documented a total of 424 violations among licensed marijuana businesses. Of these, 288 violations pertained to selling marijuana to minors and 136 violations were for allowing minors

¹ National Academies of Sciences, Engineering, and Medicine. 2017. *The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research*. Washington, DC: The National Academies Press.

² Silins, E., Swift, W., Slade, T., Toson, B., Rodgers, B., & Hutchinson, D. M. (2017). A prospective study of the substance use and mental health outcomes of young adult former and current cannabis users. *Drug and Alcohol Review*. Wiley-Blackwell. <https://doi.org/10.1111/dar.12512>

³ National Academies of Sciences, Engineering, and Medicine. 2017. *The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research*. Washington, DC: The National Academies Press.

⁴ Wohlforth, C. (2018, January 11). Marijuana school suspensions more than doubled after legalization. *Anchorage Daily News*. Retrieved February 3, 2018, from <https://www.adn.com/opinions/2018/01/11/marijuana-school-suspensions-more-than-doubled-after-legalization/>

access to a restricted area.⁵ In December 2017, the Oregon Liquor Control Commission conducted a random inspection of 66 licensed marijuana retailers and found that 16 of the businesses were selling marijuana to minors.⁶

B. Legalization would be a strain on New Jersey's budget

When costs are counted, legalized recreational marijuana will not bring in revenue for the state of New Jersey. The social costs associated with marijuana, some of which have been outlined above, far outweigh any revenue that it brings in. A study SAM has just undertaken in Connecticut found that the costs associated with marijuana legalization would total \$216 million, compared to an estimated \$113.6 million in projected tax revenue. In other words, marijuana's costs exceed the revenue by over 90%.⁷ While advocates are quick to tout tax revenue as a counterbalance to this arrangement, like with the lottery, the additional funds are not nearly enough to fix budget shortfalls. Every year, there will always be claims of a silver bullet for the budget. Yet, as history shows us, every year, there is always need for something more. Marijuana will not be a workable, pragmatic, or even helpful solution in the short or long term.

Marijuana legalization would also result in a variety of currently unquantifiable costs, including:

- Increases in alcohol use and abuse
- Increases in tobacco use
- More opioid abuse
- Increases in short-term/long-term recovery for marijuana use disorders
- Greater marijuana use among underage students
- Property and other economic damage from marijuana extraction lab explosions
- Controlling an expanded black market, sales to minors, and public intoxication
- Other administrative burdens of most state legalization programs, such as:
 - money for drugged driving awareness campaigns;
 - drug prevention programs; and
 - pesticide control and other agricultural oversight mechanisms
- Long-term health impacts of marijuana use

This last issue, in particular, represents a major cost of the two currently legal, addictive recreational drugs—tobacco and alcohol. Currently these two drugs account for many of today's top health conditions and health care costs. Far too little is known about the recognized negative

⁵ Washington State Liquor and Cannabis Board. (2017). Enforcement and compliance data [Data file]. Retrieved February 3, 2018, from <https://data.lcb.wa.gov/stories/s/WSLCB-Marijuana-Dashboard/hbnp-ia6v/>

⁶ Oregon Liquor Control Commission. (2018, January 10). *Licensees across Oregon fail to stop sales to minors* [News Release]. Retrieved February 3, 2018, from <http://supertalkradio.com/news/licensees-across-oregon-fail-to-stop-sales-to-minors/>

⁷The Projected Costs Of Marijuana Legalization In Connecticut (January 2018). Smart Approaches to Marijuana. <https://learnaboutsam.org/wp-content/uploads/2018/02/SAM-CT-Report-Costs-Marijuana2123.pdf>

long-term health effects of marijuana use (among them increased rates of mental illness, respiratory problems, and a tendency to develop other substance abuse disorders) to make the same sort of cost models seen for tobacco, such as those done by University of California, San Francisco, researchers.⁸ Moreover, since research on the health effects of marijuana use is about on par with 1930s tobacco research, marijuana use may cause other health problems about which nothing is currently known. But the indirect costs of such long-term health impacts represent almost half of the cost of tobacco to the state of California,⁹ and it would be foolish not to recognize their impact here.

There are other reasons to be concerned. For example, over half the pot money promised for drug prevention, education and treatment in Washington state never materialized.¹⁰

C. Legalization will reinforce, not diminish, the black market for marijuana

Legalization will roll out the red carpet for a larger black market for pot than currently exists. Although this may initially sound counterintuitive, a closer look at what has happened in Colorado (where non-medical marijuana was legalized in 2012) and in Oregon (where non-medical marijuana was legalized in 2014) reveals why.

A leaked January 2017 report from the Oregon State Police states that “cannabis legalization has not had a noticeable effect on Mexican [drug trafficking organizations’] illicit cannabis cultivation operations on public lands.”¹¹ It also indicates that “only 30 percent of [Oregon’s marijuana] market activity is captured in legal transactions.”¹² *That means over two-thirds of Oregon’s marijuana transactions are illegal.*

D. Drugged Driving

Marijuana-impaired driving is increasingly responsible for traffic fatalities in Colorado and Washington since pot legalization was established there. According to the AAA Foundation for Traffic Safety, the percentage of traffic deaths related to marijuana doubled in Washington State the year retail marijuana sales were allowed. We’ve seen increases in Colorado and Alaska as well.

E. Conclusion

Regardless of good intentions, legalization is bad policy. It will increase marijuana use (including among children), make New Jersey roads more dangerous, reduce businesses’

⁸ Max et al. (2014). *The Cost of Smoking in California, 2009*. San Francisco, CA: Institute for Health & Aging, University of California, San Francisco, 2014. Retrieved from <http://www.trdrp.org/files/cost-smoking-ca-final-report.pdf>.

⁹ *Id.*

¹⁰ “State hasn’t met promise to fund marijuana mitigation.” Editorial. The Seattle Times. 17 May 2016. Retrieved from <http://www.seattletimes.com/opinion/editorials/state-hasnt-met-promise-to-fund-marijuana-mitigation/>.

¹¹ Oregon State Police. *A Baseline Evaluation of Cannabis Enforcement Priorities In Oregon*. 2017, available at: <http://media.oregonlive.com/marijuana/other/2017/03/20/statepolicesmaller.pdf>.

¹² *Id.*

productivity, and target communities of color. It will also not help New Jersey's budget due to the costs of implementing the program and dealing with its consequences. And, ironically, it will not reduce black marketeering or criminal activity surrounding the drug. For those reasons, I urge you to join every major medical association in the country by not supporting marijuana legalization.

**Black Caucus Hearing
NJ RAMP
Jersey City, NJ**

Good morning, my name is Ron Importico, President and Founder of Industrial Cooling Corporation (ICC), headquartered in Metuchen, New Jersey. I am also a lifelong resident of the state of New Jersey.

I would like to thank Senator Rice and fellow members of the Black Caucus for the opportunity to speak to you today regarding the proposed legislation to legalize recreational marijuana in New Jersey.

As a father legalizing recreational marijuana gives me great concerns for my family's future, by that I mean the environment that they will be exposed to in our towns that would be selling the drugs. Think of the curiosity of a child who is walking in town on a sunny afternoon seeing advertisement for ice cream, candy or soda that is infused with THC or the exposure of the people who would be at those establishments. I know I don't want my child or any child around that environment. Don't we have our hands full with alcohol and tobacco already?

I am also greatly concerned as a business owner in New Jersey. My company has over 100 employees, which consist of service technicians, facility engineers and office personnel. ICC employs only experienced service technicians and installers who are industry and/or factory certified in a large variety of manufacturers' equipment including, but not limited to, Johnson Controls (York), Carrier, Trane, Daikin Energy Labs, Mammoth, and Dunham-Bush.

What I have experienced over the last 30 plus years in business is a sad deterioration of motivated human beings who have started experimenting with marijuana and it can often lead to much worse. I have seen people just start with "a little marijuana," which for them quickly slid into the lack of motivation and will to better themselves. As the downward spiral continued there was lost time on the job due to lack of interest and health. Ultimately, this led to loss of employment; hopefully this is challenged long before an accident occurs which will affect the company and increase the cost of doing business.

In earlier days of business this behavior was may have been tolerated, however in the workplace today many things have changed and our employees are closely screened before being allowed to work on sites.

I have great concerns about how I will protect my company's interest, should recreational marijuana become legal in NJ. It has taken me over 33 years to build an impressive fortune 500 customer base. With more people using marijuana as we can expect from the findings in Colorado and Washington, I would have to recruit personnel outside of New Jersey to meet the testing requirements, so we may continue to work on their sites. Large businesses in Colorado now state that after legalization, they have had to hire out-of-state residents to find employees that can pass a pre-employment drug screen. The CEO of the large Colorado construction company GE Johnson has said his company "has encountered so many job candidates who have failed pre-employment drug tests because of their THC use that it is actively recruiting construction workers from other states."

Data from the major drug testing firm, Quest Diagnostics, analyzes millions of results of workplace drug tests each year. They recently reported a 47 percent spike in the rate of positive oral marijuana test results in U.S. workplaces from 2013 to 2015 — and more detailed data shows an incredible 178 percent rise in that rate from 2011 to 2015. Quest Diagnostics also noted surges in positive test rates for marijuana in Colorado and Washington state following legalization. The year following legalization, marijuana positivity rates with urine

tests in Colorado and Washington increased 20 to 23 percent, respectively, compared to the five percent average increase among the U.S. general workforce.

Marijuana legalization also involves significant risks to existing businesses. According to the National Council on Alcoholism and Drug Dependence (NCADD), illegal drug use is responsible for annual economic losses of over \$80 billion. As marijuana is by far the most widely used illegal drug, it is unsurprising that its use would trigger significant losses on its own. ~~These workplace costs are of a particular concern in Maryland, which was ranked 25th out of 50 states in CNBC's "America's Top States for Business 2016" scorecard.~~

Unlike cigarettes, marijuana's psychoactive properties intoxicate and create tangible problems in the workplace. A peer-reviewed study of thousands of employees indicated that marijuana users were unjustifiably absent from work 77 percent more often than non-users, and had a rate of workplace injuries 85 percent higher than that control group. (They were also involved in workplace disciplinary incidents as a rate 55 percent higher than the control group, but there is less data available to quantify the costs of such behavior on employers' bottom line.)

Data from the National Drug Use and Health (NSDUH), the nation's premier annual survey on drug, alcohol, and tobacco use, supports this conclusion. Per the 2014 NSDUH, people who used marijuana in the last month were, even when controlling for alcohol use:

- 40 percent more likely to have missed at least one day of work in the last month due to injury or sickness; and
- 106 percent more likely—that is, more than twice as likely—to have missed at least one day of work in the last month because they “just didn't want to be there.”

The ability to work in our industry that has many dangers that we are exposed to from high voltage, rigging heavy equipment as well as high pressure gasses requires the person to be very keen and have total awareness of his or her surroundings with the loss of this accidents will occur. Lost time and injuries effect more than just the employee, he/she loses compensation as well as the company also loses. Insurances premiums go up, mod rate will increase. Therefore, increase in operating expenses and when the mod rate gets unacceptable or does not meet our client's requirement's we can no longer work for them.

When the mod rate is increased it will take 3 years before they will change the rating so the company will carry for 3 years increased insurance premiums as well as lost income since we could not work for the client. This is standard in our industry therefore it would be necessary to reduce the workforce due to this situation.

Its saddens me to think that we would place financial gains ahead of the welfare of our children and their future. In society today, we know the pressure our children are exposed to and when self-esteem is compromised it is human nature to find something to make us escape, either through positive or negative actions which all has consequences.

In the business world great effort is placed on marketing, knowing this it will be geared to our children and young adults, again all for financial gain and the dim future of our children.

Thank you for your time.

NJ-Ramp

Black Caucus Hearing

2/21/2018

Please allow me to introduce myself. My name is Anthony Ranallo. I want to take this time to thank Senator Rice and the fellow members of the Black Caucus allowing me to speak on the legalization of recreational marijuana.

I have been a NJ resident my entire life and I was in the US Air Force for ten years, construction field for over 20 years, and currently a safety professional for the last 9 years. I am also a committee member for the Mechanical Contractors Association of New Jersey (MCANJ).

I believe legalizing marijuana is a mistake. The construction field alone is a very dangerous occupation without any outside negative influences.

Most every day injuries in the workplace range from a small cut on the finger to falling from heights and everything in between. Without total concentration on the job injuries are sure to rise at an alarming rate. At any given time, someone can get electrocuted, fall from a height, lose an eye, and become trapped or engulfed, and these are just a few of the recorded injuries. These types of injuries occur every day and is happening without the influence of marijuana.

What will happen if workers are eating edibles with THC, consuming THC based beverages or frankly just getting high? Right now there is no way to tell if this is happening in the workplace and unlike alcohol there is no test we can perform.

In the event recreational marijuana becomes legal there will be no way to tell if people are using before, after, and yes during work. No telling what will happen to our NJ Work force if we allow Recreational marijuana to become legal.

I understand not everyone in the State is participating in the use of recreational marijuana but right now the Law is our largest deterrent and we still find individuals using recreational marijuana. The employees, in this State as well as the employers will suffer, as injuries rise, lost days will rise, and Total Recordable Incident Rating (TRIRs) will increase, affecting our Experience Modification Rating's (EMR). These are industry ratings that directly affect workman's comp to rise and fall. The increased ratings will effect employers from bidding on larger corporate jobs and/or maintain the clients they already have. Not counting the insurance cost and potential for Occupational Safety and Health Administration (OSHA) fines. Occupational Safety and Health Administration (OSHA) was developed to protect the everyday worker. I'm sure when the Occupational Safety and Health Administration (OSHA) was developed legalizing marijuana was the last thing on their mind.

Companies' put together a drug and alcohol policy to protect themselves and their employees, how are they to expect the employees to recognize the policy if the State of New Jersey does not. Eventually companies most effected may choose to reduce work force and may even be forced to close their doors.

In closing I would just ask why would we put our most valuable assets at a higher risk than already exists? Please speak out against the legalization of Recreational marijuana and lets hold our State to the standard we are accustomed to and teach our children it's not just about the money.

NJ-Ramp
Black Caucus Hearing

2/21/2018

Thank you
Anthony Ranallo
Safety officer,
Business owner,
Father,
Grandfather.

Any Questions.

My name is Morgan Thompson and I am a person in long-term recovery. What this means for me is that I have been free from alcohol and other drug abuse since 2009, after experiencing a severe substance use disorder throughout my teenage years that began with marijuana and ended with heroin and crack cocaine. I am also the Director of Academic and Recovery Support Services for Prevention Links and the Raymond Lesniak Experience Strength and Hope Recovery High School. We provide recovery support and educational services to youth and emerging adults who have been impacted by substance use disorders and their families.

While I do believe that anecdotal evidence should always be supported by well conducted, replicated data, it is important to understand the profound depth of pain and suffering individuals with substance use disorders experience, particularly when they begin in youth and continue over the course of a lifetime. For this reason, I share my story with you today. When I began using marijuana at the age of 13, I did not have shame or fear in using the drug because I had been raised to believe it was safe and natural, but misunderstood by the government and society. At family parties, a joint being passed around was as commonplace as alcohol. At that time, my parents were uneducated about the dangers of marijuana use among teenagers, and were not particularly concerned when they suspected that I was using. My perception of the risk of marijuana to cause negative effects in my life was minimal to nonexistent.

I don't know if I agree with the concept of marijuana being a gateway drug, or at least not in the sense that society has come to understand that term. What I do know is that for myself, and for most of my friends in recovery, and for most of the students I have worked with over the years, marijuana is where the story began. I don't know many people who became addicted to heroin in their late teens and early twenties who weren't experimenting with marijuana in their early teen years or sooner. Again, I don't want to suggest that everyone who uses marijuana as a teenager, or even later in life, is going to become addicted to it or to other substances.

But there is ample research pointing to the danger of regular marijuana exposure on the developing brain, which can impair executive functioning, impulse control, and other protective

factors for healthy development. Using marijuana regularly in early adolescence can alter the brain in ways that make a child more vulnerable to addiction as they grow up, particularly if they have a genetic predisposition to addiction, a mental health condition, experience abuse or neglect, or other risk factors.

I entered high school as a near daily marijuana user. I left high school experimenting with opiates and cocaine. By the time I entered college I was physically dependent and dropped out of school after two weeks. I tried to attend community college and failed out, too far gone into the depths of my addiction. I was very lucky that, when I reached a point at which I was willing to receive help of some kind, my parents were incredibly supportive and had excellent insurance that enabled me to receive all the treatment services I required. Not all families are so lucky. I have been drug and alcohol free since I was 18 years old and I have been able to pursue a life of meaning and fulfillment in recovery. But my story, sadly, is the exception and not the norm.

It is important to know that I am not standing before you with nearly nine years clean, stably employed, finishing a masters program because I am strong or smart or special. It took several years of therapeutic and recovery support, access to education and employment, stable housing, financial support from my family, and so much more to make my recovery possible. I have made it my mission to do everything in my power to make those same resources available to every young person struggling with addiction. But I can tell you, that is a very challenging mission, because the resources simply aren't there in sufficient numbers.

Legalization of recreational marijuana will mean that more children are using drugs earlier. Some of them will "grow out of it," never use other drugs, and never become addicted. But a percentage of them will, and the more youth who are using marijuana, the higher that number will equate to. In an already resource scarce field, are we ready to invest the necessary funding and infrastructure into providing adequate prevention, treatment, and recovery support services to address that need? My guess is that we will plan to, we'll talk about the potential for revenue generation and how it will help people with addictions, we'll make big projections. And then, like we have seen with alcohol and tobacco, we will realize that the societal costs far outweigh the actual revenue generated, we will see that the projected tax

revenues aren't quite what we had hoped, like other states that have legalized are seeing, and we will be stuck with another generation of drug dependent young adults with insufficient resources to treat their health condition.

There is little that legalization can accomplish that cannot be done through properly implemented decriminalization. And if we do opt to go that route, we will not have to contend with the force of a multi-billion dollar industry that will benefit no one but its leaders while our young people's views are warped by aggressive marketing campaigns designed to make them a lifetime customer. Thank you for your time.

David G. Evans, Esq.
203 Main St. # 250
Flemington, NJ 08822
908-963-0254

SUMMARY
TESTIMONY BEFORE THE NEW JERSEY LEGISLATIVE BLACK CAUCUS
RECREATIONAL MARIJUANA HEARING
February 21, 2018

Senator Rice and the members of the New Jersey Legislative Black Caucus

I was the Manager of the New Jersey Intoxicated Driving Program in the Department of Health. I also served as a Research Scientist in the Data Analysis and Epidemiology Services Unit of the Division of Alcoholism and Drug Abuse in the Department of Health. I have been in the private practice of law full time since 1992, including doing criminal defense. I was a Public Defender in Newark for two years early in my career.

The term "recreational" marijuana is not descriptive. It is a term used by the marijuana industry to make marijuana appear to be benign. Marijuana is used as an intoxicant. Unlike alcohol, marijuana use always intoxicates. When you use an intoxicant you put yourself and others at risk. There is nothing "recreational" about that.

The bill sponsored by Senators Rice and Singer is a pragmatic and compassionate response to the "social justice" issue of marijuana arrests. Kids who are arrested will have an opportunity to get help and education and have their records expunged. Evaluation and treatment if needed should be required for all marijuana offenses.

I will briefly go through the bill and point out its benefits.

I suggest that you hold firm on the 10 grams for the civil offense. 10 grams is a lot of marijuana. It is at least 20 joints.

I managed the New Jersey Intoxicated Driving Program that included drugged drivers. About 15,000 a year were so sick from substance use they needed addiction treatment. Legalizing marijuana will create more substance abuse. There will be more highway deaths and serious injuries especially to young people.

Here is a recent editorial I wrote on this issue.

LEGALIZING POT WILL CAUSE MORE MAYHEM ON OUR ROADWAYS

By: David G. Evans, Esq.

I managed the New Jersey Intoxicated Driving Program that included drugged drivers. About 15,000 a year were so sick from substance use they needed addiction treatment. Legalizing marijuana will create more substance abuse. There will be more highway deaths and serious injuries especially to young people.

A recent Star Ledger editorial claimed that states with legal marijuana do not have higher fatal crash rates than those that did not. They cited an American Journal of Public Health (AJPH) article claiming that Colorado and Washington had fatal crash rates similar to states without legal marijuana. The AJPH article is badly flawed. It did not measure marijuana driving data but only total fatal crashes. The Ledger "cherry picked" those states. Marijuana is legalized in at least one form in 29 states. They have the highest marijuana use rates.

Marijuana significantly impairs driving including time and distance estimation and reaction times and motor coordination. [1] The National Highway Traffic Safety Administration lists marijuana as the most prevalent drug in fatally injured drivers with 28 % testing positive for marijuana. [2]

The Ledger inaccurately claimed there is no test to detect marijuana driving impairment. The fact is that impairment is detected by observing driving patterns and performing roadside impairment assessments, just like with alcohol. You can be convicted on those alone without a chemical test. Testimony by a police officer that a driver was driving erratically with slurred speech and "bloodshot and glassy" eyes and smelling of burnt marijuana is evidence. Also, roadside detection of marijuana in the body can be done using oral fluid devices or other tests done at the police station.

The Ledger claims that alcohol is a greater danger. It is true that the crash risk for a driver on alcohol is higher than a driver on marijuana. But to suggest it is safe to drive after using marijuana is an irresponsible statement. An even greater danger is the combination of alcohol and marijuana that have severe psychomotor effects impairing driving. [3]

What about our kids? Vehicle crashes are the leading cause of death among those aged 16-25. [4] Weekend nighttime driving under the influence of marijuana among young drivers has increased by 48%. [5] About 13 % of high school seniors said they drove after using marijuana while only 10 % drove after having five or more drinks. [6] Another study showed about 28,000 seniors each year admitted to being in at least one motor vehicle accident after using marijuana. [7]

Marijuana legalization causes many problems. An editorial from the Colorado Springs Gazette about legalization there records:

1. Residential neighborhoods "reek of marijuana."
2. Homeless substance abusers migrate there.
3. A doubling of drivers involved in fatal crashes testing positive for marijuana.
4. School drug violations in K-12 schools increased 45%.

5. School suspensions for drugs increased 45%.
6. Colorado is first in the country for marijuana use among teens. [8]

Do you want this for our neighborhoods, our schools and our kids?

The marijuana industry is backing legalization. Do we want more dangerous drivers on our roads so they can make money from selling marijuana?

References

[1] NHTSA, Use of Controlled Substances and Highway Safety; A Report to Congress (U.S. Dept. of Transportation, Washington, D.C., 1988)

[2] <http://cesar.umd.edu/cesar/cesarfax/vol19/19-49.pdf>

[3] https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6448a1.htm?s_cid=mm6448a1_w

[4] Ibid.

[5] Ibid

[6]

<https://archives.drugabuse.gov/news-events/news-releases/drug-impaired-driving-by-youth-remains-serious-problem>

[7] "Unsafe Driving by High School Seniors: National Trends from 1976 to 2001 in Tickets and Accidents After Use of Alcohol, Marijuana and Other Illegal Drugs." Journal of Studies on Alcohol. May 2003

[8]

<http://gazette.com/editorial-the-sad-anniversary-of-big-commercial-pot-in-colorado/article/1614900>

JUVENILE FAMILY CRISIS LAW

NJSA 2A:4A-76 to 92

- This law covers situations (i.e. chronic truancy or a serious conflict between child and parent) in which the conduct or behavior of the juvenile or his family is a problem which merits response, although no delinquent act has been committed. It can include substance use by a parent or child.
- This crisis will be addressed through an intervention process that can include the family. All can be ordered into treatment

Who can start the process?

- A law enforcement officer
- A parent or juvenile
- A public or private agency, educational institution, or any other organization serving children, which has contact with the juvenile or family, and has reasonable cause to believe that a family crisis exists.

PRETRIAL INTERVENTION

N.J.S.A. 2C:43-12

- Offenders can avoid prosecution by receiving early rehabilitative services or supervision, when such services or supervision can reasonably be expected to deter future criminal behavior and when there is apparent causal connection between the offense charged and the rehabilitative or supervisory need. Substance abuse treatment is often included.

COLLEGE LOANS

- Marijuana legalization advocates claim that when college students get convicted of possession of small amounts of marijuana they lose financial aid. The fact is that this must take place during the student's enrollment at college **when the student is receiving the federal loan** (the "do no drugs on the public's dime" principle).
- In any case, the funding suspension is temporary. They can still get a student loan if they complete a drug rehabilitation program and pass two drug tests as provided in the law. 20 USC 1091 (r)

AN ACT concerning marijuana, amending various parts of the statutory law, and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.2B:12-17 is amended to read as follows:

2B:12-17. Jurisdiction of specified offenses. A municipal court has jurisdiction over the following cases within the territorial jurisdiction of the court:

- a. Violations of county or municipal ordinances;
- b. Violations of the motor vehicle and traffic laws;
- c. Disorderly persons offenses, petty disorderly persons offenses and other non-indictable offenses except where exclusive jurisdiction is given to the Superior Court;
- d. Violations of the fish and game laws;
- e. Proceedings to collect a penalty where jurisdiction is granted by statute;
- f. Violations of laws regulating boating; [and]
- g. Violations of sections 10 and 11 of P.L. , c. (C.)
(pending before the Legislature as this bill); and
- h. Any other proceedings where jurisdiction is granted by statute.

(cf: P.L.1996, c.95, s.12)

2. N.J.S.2C:35-2 is amended to read as follows:

2C:35-2. As used in this chapter:

"Administer" means the direct application of a controlled dangerous substance or controlled substance analog, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in his presence, by his lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b), and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products. The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21 U.S.C. s.355).

"Counterfeit substance" means a controlled dangerous substance or controlled substance analog which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance or controlled substance analog, whether or not there is an agency relationship.

"Dispense" means to deliver a controlled dangerous substance or controlled substance analog to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. "Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance or controlled substance analog. "Distributor" means a person who distributes.

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the

structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b), and (c) of this section; but does not include devices or their components, parts, or accessories.

"Drug or alcohol dependent person" means a person who as a result of using a controlled dangerous substance or controlled substance analog or alcohol has been in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance or controlled substance analog or alcohol on a continuous or repetitive basis. Drug or alcohol dependence is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled dangerous substance or controlled substance analog, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance or controlled substance analog by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance or controlled substance analog in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

"Marijuana" means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Marijuana concentrate" means a product consisting wholly or in part of the resin extracted from any part of the plant Genus Cannabis L. and having a tetrahydrocannabinol concentration greater than 2.5 percent.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable

origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) Opium, coca leaves, and opiates;
- (b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;
- (c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecogine.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled pursuant to the provisions of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity, or one or more individuals.

"Personal-use amount of a regulated marijuana-infused product" means one or more products, containing a total of no more than 100 milligrams of tetrahydrocannabinol, comprised of marijuana, marijuana extracts, or marijuana resins and other ingredients and intended for personal use or consumption, including but not limited to edible products, ointments, and tinctures, lawfully obtained from a jurisdiction where marijuana sales to adults are authorized under the law of the jurisdiction, in its original, child-resistant, labeled packaging when stored.

"Plant" means an organism having leaves and a readily observable root formation, including, but not limited to, a cutting having roots, a rootball or root hairs.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance or controlled substance analog in the course of professional practice or research in this State.

(a) "Physician" means a physician authorized by law to practice medicine in this or any other state and any other person authorized by law to treat sick and injured human beings in this or any other state.

(b) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.

(c) "Dentist" means a dentist authorized by law to practice dentistry in this State.

(d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances or controlled substance analogs.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances or controlled substance analogs for scientific, experimental, and medical purposes and for purposes of instruction approved by the Department of Health.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance or controlled substance analog.

"Immediate precursor" means a substance which the Division of Consumer Affairs in the Department of Law and Public Safety has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Residential treatment facility" means any facility licensed and approved by the Department of Human Services and which is approved by any county probation department for the inpatient treatment and rehabilitation of drug or alcohol dependent persons.

"Schedules I, II, III, IV, and V" are the schedules set forth in sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any regulations issued by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to the director's authority as provided in section 3 of P.L.1970, c.226 (C.24:21-3).

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance or controlled substance analog for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

"Prescription legend drug" means any drug which under federal or State law requires dispensing by prescription or order of a licensed physician, veterinarian, or dentist and is required to bear the statement "Rx only" or similar wording indicating that such drug may be sold or dispensed only upon the prescription of a licensed medical practitioner and is not a controlled dangerous substance or stramonium preparation.

"Stramonium preparation" means a substance prepared from any part of the stramonium plant in the form of a powder, pipe mixture, cigarette, or any other form with or without other ingredients.

"Stramonium plant" means the plant *Datura Stramonium* Linne, including *Datura Tatula* Linne.
(cf: P.L.2013, c.35, s.1)

3. N.J.S.2C:35-10 is amended to read as follows:

2C:35-10. Possession, Use or Being Under the Influence, or Failure to Make Lawful Disposition.

a. It is unlawful for any person, knowingly or purposely, to obtain, or to possess, actually or constructively, a controlled dangerous substance or controlled substance analog, unless the substance was obtained directly, or pursuant to a valid prescription or order form from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this section with respect to:

(1) A controlled dangerous substance, or its analog, classified in Schedule I, II, III or IV other than those specifically covered in this section, is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$35,000.00 may be imposed;

(2) Any controlled dangerous substance, or its analog, classified in Schedule V, is guilty of a crime of the fourth degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$15,000.00 may be imposed;

(3) Possession of: (a) more than 50 grams of marijuana, including any adulterants or dilutants [, or]; (b) more than five grams of hashish or marijuana concentrate; or (c) more than two times a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2, is guilty of a crime of the fourth degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed; [or]

(4) Possession of : (a) more than 10 grams but less than 50 grams of marijuana, including any adulterants or dilutants; (b) more than a personal-use amount of a regulated marijuana-infused product but less than two times a personal-use amount of a regulated marijuana-infused product; or (c) more than one gram but less than five grams of hashish or marijuana concentrate [or less of marijuana, including any adulterants or dilutants], or five grams or less of hashish is a disorderly person; or

(5) Possession of: (a) 10 grams or less of marijuana, including any adulterants or dilutants; (b) a personal-use amount of a regulated marijuana-infused product; or (c) one gram or less of hashish or marijuana concentrate is not a violation of this title, but shall be subject to the penalties set forth in section 10 of P.L. ., c. (C.) (pending before the Legislature as this bill).



Any person who commits any offense defined in this section while on any property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of any such school property or a school bus, or while on any school bus, and who is not sentenced to a term of imprisonment, shall, in addition to any other sentence which the court may impose, be required to perform not less than 100 hours of community service.

b. Any person who uses or who is under the influence of any controlled dangerous substance, or its analog, for a purpose other than the treatment of sickness or injury as lawfully prescribed or administered by a physician is a disorderly person. It is not a violation of this subsection if a person is under the influence of marijuana.

In a prosecution under this subsection, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific drug, but it shall be sufficient for a conviction under this subsection for the State to prove that the accused did use or was under the influence of some controlled dangerous substance, counterfeit controlled dangerous substance, or controlled substance analog, other than marijuana, by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any controlled dangerous substance or controlled substance analog.

c. Any person who knowingly obtains or possesses a controlled dangerous substance or controlled substance analog in violation of subsection a. of this section and who fails to voluntarily deliver the substance to the nearest law enforcement officer is guilty of a disorderly persons offense. Nothing in this subsection shall be construed to preclude a prosecution or conviction for any other offense defined in this title or any other statute. It is not a violation of this subsection if the substance is 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate.
(cf: P.L.1997, c.181, s.6)

4. N.J.S.2C:35-18 is amended to read as follows:

2C:35-18. Exemption; Burden of Proof. a. If conduct is authorized by the provisions of P.L.1970, c.226 (C.24:21-1 et seq.), P.L.2009, c.307 (C.24:61-1 et al.), [or] P.L.2015, c.158 (C.18A:40-12.22 et al.), or if conduct is not subject to a criminal penalty pursuant to the provisions of paragraph (5) of subsection a. of N.J.S.2C:35-10, that authorization or decriminalization shall, subject to the provisions of this section, constitute an exemption from criminal liability under this chapter or chapter 36, and the absence of such authorization or decriminalization shall not be construed to be an element of any offense in this chapter or chapter 36. It is an affirmative defense to any criminal action arising under

this chapter or chapter 36 that the defendant is the authorized holder of an appropriate registration, permit or order form or is otherwise exempted or excepted from criminal liability by virtue of any provision of P.L.1970, c.226 (C.24:21-1 et seq.), P.L.2009, c.307 (C.24:61-1 et al.), [or] P.L.2015, c.158 (C.18A:40-12.22 et al.) , or the provisions of paragraph (5) of subsection a. of N.J.S.2C:35-10. The affirmative defense established herein shall be proved by the defendant by a preponderance of the evidence. It shall not be necessary for the State to negate any exemption set forth in this act or in any provision of Title 24 of the Revised Statutes in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under this act.

b. No liability shall be imposed by virtue of this chapter or chapter 36 upon any duly authorized State officer, engaged in the enforcement of any law or municipal ordinance relating to controlled dangerous substances or controlled substance analogs. (cf: P.L.2015, c.158, s.3)

5. N.J.S.2C:36-2 is amended to read as follows:

2C:36-2. Use or possession with intent to use ~~drug paraphernalia~~ disorderly persons offense.

It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title. Any person who violates this section is guilty of a disorderly persons offense.

Use, or possession with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the human body 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate is not a violation of this section but shall be subject to the penalties set forth in section 11 of P.L. . c. (C.) (pending before the Legislature as this bill).
(cf: P.L.2007, c.31, s.3)

6. N.J.S.2C:36A-1 is amended to read as follows:

2C:36A-1. Conditional discharge for certain first offenses.

a. Whenever any person who has not previously been convicted of any offense under section 20 of P.L.1970, c.226 (C.24:21-20), or a disorderly persons or petty disorderly persons offense defined in chapter 35 or 36 of this title or, subsequent to the effective date of this title, under any law of the United States, this State or any other state relating to marijuana, or stimulant, depressant, or

hallucinogenic drugs, and who has not previously participated in a program of supervisory treatment pursuant to N.J.S.2C:43-12 or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), or a Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), is charged with or convicted of any disorderly persons offense or petty disorderly persons offense under chapter 35 or 36 of this title, the court [upon notice to the prosecutor and], subject to subsection c. of this section, [may on motion of the defendant or the court] shall:

(1) Suspend further proceedings and with the consent of the person after reference to the State Bureau of Identification criminal history record information files, place him under supervisory treatment upon such reasonable terms and conditions as it may require, including the terms and conditions set forth in subsection b. of this section; or

(2) After a plea of guilty or finding of guilty, and without entering a judgment of conviction, and with the consent of the person after proper reference to the State Bureau of Identification criminal history record information files, place him on supervisory treatment upon reasonable terms and conditions as it may require, including the terms and conditions set forth in subsection b. of this section, or as otherwise provided by law.

b. The court shall order the person to undergo a diagnostic assessment by a professional licensed or certified by the Division of Mental Health and Addiction Services in the Department of Health to perform such assessments to determine if and to what extent the person is drug dependent and would benefit from treatment.

(1) If the person is determined to not be drug dependent he shall complete a two-hour education program on marijuana and other controlled dangerous substances, according to a curriculum developed by the Division of Mental Health and Addiction Services in the Department of Health. The curriculum shall include written materials. If the professional determines that the person is not drug dependent, the professional shall report to the court that no further action is needed, and the records of the violation shall be expunged as set forth in subparagraph (b) of paragraph (2) of this subsection.

(2) If the person is determined to be drug dependent within the meaning of N.J.S.2C:35-2 and substance abuse treatment and monitoring will serve to benefit the person by addressing his drug dependency, the court shall order the person to undergo treatment for drug dependency at a suitable treatment facility licensed and approved by the Department of Health and to comply with the requirements of the course of treatment. The person shall be required to submit to periodic testing to determine compliance with treatment program goals. The treatment provider shall promptly report to the court any significant failures by the person to comply with any court-imposed term or condition of treatment or any requirements of the course of treatment, including but not limited to

a positive drug or alcohol test or the unexcused failure to attend any session or activity.

A person may apply for a waiver of the cost of the substance abuse assessment and substance abuse treatment by reason of extreme financial hardship. Costs of the substance abuse assessment may be reimbursed from the Drug Education Program Fund established in section 13 of P.L. , c. (C.) (pending before the Legislature as this bill).

(a) Upon completion of treatment, the agency designated by the court to monitor or supervise the person's treatment shall report to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions.

(b) After the expiration of a period six months following the court's entry of the order of dismissal, the records of the person's arrest shall be expunged pursuant to N.J.S.2C:52-6. Expungement shall not require any action by the person or the payment of any fee.

In no event shall the court require as a term or condition of supervisory treatment under this section, referral to any residential treatment facility for a period exceeding the maximum period of confinement prescribed by law for the offense for which the individual has been charged or convicted, nor shall any term of supervisory treatment imposed under this subsection exceed a period of three years. [If a person is placed under supervisory treatment under this section after a plea of guilty or finding of guilt, the court as a term and condition of supervisory treatment shall suspend the person's driving privileges for a period to be fixed by the court at not less than six months or more than two years unless the court finds compelling circumstances warranting an exception. For the purposes of this subsection, compelling circumstances warranting an exception exist if the suspension of the person's driving privileges will result in extreme hardship and alternative means of transportation are not available. In the case of a person who at the time of placement under supervisory treatment under this section is less than 17 years of age, the period of suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the person is placed on supervisory treatment and shall run for a period as fixed by the court of not less than six months or more than two years after the day the person reaches the age of 17 years.

If the driving privilege of a person is under revocation, suspension, or postponement for a violation of this title or Title 39 of the Revised Statutes at the time of the person's placement on supervisory treatment under this section, the revocation, suspension or postponement period imposed herein shall commence as of the date of the termination of the existing revocation, suspension or postponement. The court which places a person on supervisory treatment under this section shall collect and forward the person's driver's license to the New Jersey Motor Vehicle Commission and file an appropriate report with the commission in accordance with

the procedure set forth in N.J.S.2C:35-16. The court shall also inform the person of the penalties for operating a motor vehicle during the period of license suspension or postponement as required in N.J.S.2C:35-16.]

Upon violation of a term or condition of supervisory treatment the court may enter a judgment of conviction and proceed as otherwise provided, or where there has been no plea of guilty or finding of guilty, resume proceedings. Upon fulfillment of the terms and conditions of supervisory treatment the court shall terminate the supervisory treatment and dismiss the proceedings against him. Termination of supervisory treatment and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities, if any, imposed by law upon conviction of a crime or disorderly persons offense but shall be reported by the clerk of the court to the State Bureau of Identification criminal history record information files. Termination of supervisory treatment and dismissal under this section may occur only once with respect to any person. Imposition of supervisory treatment under this section shall not be deemed a conviction for the purposes of determining whether a second or subsequent offense has occurred under section 29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36 of this title or any law of this State.

c. Proceedings under this section shall [not] be available to [any] every defendant unless the court in its discretion concludes that:

(1) The defendant's continued presence in the community, or in a civil treatment center or program, will [not] pose a danger to the community; or

(2) [That the] The terms and conditions of supervisory treatment will be [adequate] inadequate to protect the public and will not benefit the defendant by serving to correct any dependence on or use of controlled substances which he may manifest; [and] or

(3) The person has [not] previously received supervisory treatment under section 27 of P.L.1970, c.226 (C.24:21-27), N.J.S.2C:43-12, or the provisions of this chapter.

d. A person seeking conditional discharge pursuant to this section shall pay to the court a fee of \$75 which shall be paid to the Treasurer of the State of New Jersey for deposit in the General Fund. The defendant shall also be required to pay restitution, costs and other assessments as provided by law. A person may apply for a waiver of this fee, by reason of poverty, pursuant to the Rules Governing the Courts of the State of New Jersey, or the court may permit the defendant to pay the conditional discharge fee and other assessments in installments or may order other alternatives pursuant to section 1 of P.L.2009, c.317 (C.2B:12-23.1).

(cf: P.L.2017, c.42, s.9)

7. N.J.S.2C:52-1 is amended to read as follows:

2C:52-1. Definition of Expungement.

a. Except as otherwise provided in this chapter, expungement shall mean the extraction and isolation of all records on file within any court, detention or correctional facility, law enforcement or criminal justice agency concerning a person's detection, apprehension, arrest, detention, trial or disposition of: an offense within the criminal justice system, or a violation of section 10 or 11 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. Expunged records shall include complaints, warrants, arrests, commitments, processing records, fingerprints, photographs, index cards, "rap sheets" and judicial docket records.
(cf: P.L.1979, c.178, s.108)

8. N.J.S.2C:52-3 is amended to read as follows:

2C:52-3. Disorderly persons offenses and petty disorderly persons offenses.

a. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has not been convicted of any crime, whether within this State or any other jurisdiction, may present an expungement application to the Superior Court pursuant to this section. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has also been convicted of one or more crimes shall not be eligible to apply for an expungement pursuant to this section, but may present an expungement application to the Superior Court pursuant to N.J.S.2C:52-2.

b. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has not been convicted of any crime, whether within this State or any other jurisdiction, may present an expungement application to the Superior Court pursuant to this section if:

the person has been convicted, under the laws of this State, on the same or separate occasions of no more than four disorderly persons offenses, no more than four petty disorderly persons offenses, or a combination of no more than four disorderly persons and petty disorderly persons offenses, and the person does not otherwise have any prior or subsequent conviction for a disorderly persons or petty disorderly persons offense, whether within this State or any other jurisdiction, such that the total number of convictions for disorderly persons and petty disorderly persons offenses would exceed four; or

the person has been convicted of multiple disorderly persons offenses or multiple petty disorderly persons offenses under the laws of this State, or a combination of multiple disorderly persons and petty disorderly persons offenses under the laws of this State,

which convictions were entered on the same day, and does not otherwise have any prior or subsequent conviction for another offense in addition to those convictions included in the expungement application, whether any such conviction was within this State or any other jurisdiction; or

the person has been convicted of multiple disorderly persons offenses or multiple petty disorderly persons offenses under the laws of this State, or a combination of multiple disorderly persons and petty disorderly persons offenses under the laws of this State, which offenses or combination of offenses were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time, regardless of the date of conviction or sentencing for each individual offense, and the person does not otherwise have any prior or subsequent conviction for another offense in addition to those convictions included in the expungement application, whether within this State or any other jurisdiction.

The person, if eligible, may present the expungement application after the expiration of a period of five years from the date of his most recent conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later. The term "fine" as used herein and throughout this section means and includes any fine, restitution, and other court-ordered financial assessment imposed by the court as part of the sentence for the conviction, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person shall submit the expungement application to the Superior Court in the county in which the most recent conviction for a disorderly persons or petty disorderly persons offense was adjudged, which contains a separate, duly verified petition as provided in N.J.S.2C:52-7 for each conviction sought to be expunged, praying that the conviction, or convictions if applicable, and all records and information pertaining thereto be expunged. The petition for each conviction appended to an application shall comply with the requirements of N.J.S.2C:52-1 et seq.

Notwithstanding the provisions of the five-year time requirement, an application may be filed and presented, and the court may grant an expungement pursuant to this section, when the court finds:

(1) the fine is satisfied but less than five years have expired from the date of satisfaction, and the five-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least three but less than five years have expired from the date of the most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; and

the person has not been otherwise convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the most recent conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense or offenses, and the applicant's character and conduct since the conviction or convictions.

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider the amount of the fine or fines imposed, the person's age at the time of the offense or offenses, the person's financial condition and other relevant circumstances regarding the person's ability to pay.

c. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to an expungement of a conviction of any of the following offenses that occurred prior to the enactment of P.L. , c. (C.) (pending before the Legislature as this bill) and no fee shall be charged to the person making such application:

(1) a violation of subsections a., b., or c. of N.J.S.2C:35-10 involving possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate; or

(2) a violation of subsection b. of N.J.S.2C:36-2 involving paraphernalia for the use of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate.

(cf: P.L.2017, c.244, s.2)

9. Section 1 of P.L.1964, c.289 (C.39:4-49.1) is amended to read as follows:

1. No person shall operate a motor vehicle on any highway while knowingly having in his possession or in the motor vehicle any controlled dangerous substance as classified in Schedules I, II, III, IV and V of the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.) or any prescription legend drug, unless the person has obtained the substance or drug from, or on a valid written prescription of, a duly licensed physician, veterinarian, dentist or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals or unless the person possesses a controlled dangerous substance pursuant to a lawful order of a practitioner or lawfully possesses a Schedule V substance.

A person who violates this section shall be fined not less than \$50.00 and shall forthwith forfeit his right to operate a motor vehicle for a period of two years from the date of his conviction. This section shall not apply to possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use

amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate.

(cf: P.L.1985, c.239, s.1)

10. (New section) a. Any person who, in violation of paragraph (5) of subsection a. of N.J.S.2C:35-10, possesses 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate, shall be subject to the following civil penalties:

- (1) \$150 for a first violation;
- (2) \$200 for a second violation;
- (3) \$500 for a third or subsequent violation.

No additional fines, penalties, or fees shall be imposed by the court, except court costs.

The penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. A penalty recovered under the provisions of this section shall be recovered by and in the name of the State by the local municipality. The penalty shall be paid into the treasury of the municipality in which the violation occurred. Of each penalty imposed pursuant to this section, \$50 shall be forwarded by the municipality to the State to be deposited in the "Drug Education Program Fund" established pursuant to section 13 of P.L. , c. C.) (pending before the Legislature as this bill). The remainder of the penalty monies collected pursuant to this section shall be retained by the municipality for the general uses of the municipality.

A violation of this section shall be proved by a preponderance of the evidence.

The court may waive the penalties in cases of extreme financial hardship. The court shall waive the penalties for a single violation within a three-year period upon proof that, within 60 days of the violation, the person completed a substance abuse assessment by a professional licensed by the Division of Mental Health and Addiction Services in the Department of Health to perform such assessments. A person who intends to undergo such an assessment shall notify the court, which shall schedule the matter for review after 180 days. If proof of completion of the assessment is filed on or before 180 days, the court shall waive the penalties without a hearing unless requested by a party.

b. The substance abuse assessment shall determine if, and to what extent, the person is a drug dependent person within the meaning of N.J.S.2C:35-2 and would benefit from treatment. If the person is determined to not be drug dependent, he shall complete a two-hour education program on marijuana and other controlled dangerous substances according to a curriculum developed by the Division of Mental Health and Addiction Services in the

Department of Health. The curriculum shall include written materials. If the professional determines that the person is not drug dependent, the professional shall report to the court that no further action is needed, and the records of the violation shall be expunged as set forth in subsection e. of this section.

c. If the person is determined to be drug dependent within the meaning of N.J.S.2C:35-2 and substance abuse treatment and monitoring will serve to benefit the person by addressing his drug dependency, the court shall order the person to undergo treatment for drug dependency at a suitable treatment facility licensed and approved by the Department of Health and to comply with the requirements of the course of treatment. The person shall be required to submit to periodic testing to determine compliance with treatment program goals. The treatment provider shall promptly report to the court any significant failures by the person to comply with any court-imposed term or condition of treatment or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test or the unexcused failure to attend any session or activity.

d. Upon completion of treatment, the agency designated by the court to monitor or supervise the person's treatment shall report to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions.

e. After the expiration of a period of six months following the completion of the education program set forth in subsection b. of this section or following substance abuse treatment as set forth in subsection c. of this section, the records of the violation shall be expunged in accordance with the provisions of section 12 of P.L. , c. (C.) (pending before the Legislature as this bill). Expungement shall not require any action by the person or the payment of any fee.

f. A person may apply for a waiver of court fees and the cost of the substance abuse assessment and treatment set forth in this section by reason of extreme financial hardship. Costs of the substance abuse assessment may be reimbursed from the Drug Education Program Fund established in section 13 of P.L. , c. (C.) (pending before the Legislature as this bill).

11. (New section) a. Any person who possesses drug paraphernalia, as defined in N.J.S.2C:36-1, for the personal use of 10 grams or less of marijuana, a personal-use amount of a regulated marijuana-infused product, or one gram or less of hashish or marijuana concentrate, shall be subject to a civil penalty of \$100. No additional fines, penalties, or fees shall be imposed by the court, except court costs.

The penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. A penalty recovered under the provisions of this

section shall be recovered by and in the name of the State by the local municipality. The penalty shall be paid into the treasury of the municipality in which the violation occurred. Of each penalty imposed pursuant to this section, \$50 shall be forwarded by the municipality to the State to be deposited in the "Drug Education Program Fund" established pursuant to section 13 of P.L. , c. C.) (pending before the Legislature as this bill). The remainder of the penalty monies collected pursuant to this section shall be retained by the municipality for the general uses of the municipality.

A violation of this section shall be proved by a preponderance of the evidence.

The court may waive the penalty in cases of extreme financial hardship. The court shall waive the penalty for a single violation within a three-year period upon proof that, within 60 days of the violation, the person completed a substance abuse assessment by a professional licensed by the Division of Mental Health and Addiction Services in the Department of Health to perform such assessments. A person who intends to undergo such an assessment shall notify the court, which shall schedule the matter for review after 180 days. If proof of completion of the assessment is filed on or before 180 days, the court shall waive the penalties without a hearing unless requested by a party.

b. The substance abuse assessment shall determine if, and to what extent, the person is a drug dependent person within the meaning of N.J.S.2C:35-2 and would benefit from treatment. If the person is determined to not be drug dependent he shall complete a two-hour education program on marijuana and other controlled dangerous substances according to a curriculum developed by the Division of Mental Health and Addiction Services in the Department of Health. The curriculum shall include written materials. If the professional determines that the person is not drug dependent, the professional shall report to the court that no further action is needed, and the records of the violation shall be expunged as set forth in subsection e. of this section.

c. If the person is determined to be drug dependent within the meaning of N.J.S.2C:35-2 and substance abuse treatment and monitoring will serve to benefit the person by addressing his drug dependency, the court shall order the person to undergo treatment for drug dependency at a suitable treatment facility licensed and approved by the Department of Health and to comply with the requirements of the course of treatment. The person shall be required to submit to periodic testing to determine compliance with treatment program goals. The treatment provider shall promptly report to the court any significant failures by the person to comply with any court-imposed term or condition of treatment or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test or the unexcused failure to attend any session or activity.

d. Upon completion of treatment, the agency designated by the court to monitor or supervise the person's treatment shall report to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions.

e. After the expiration of a period of six months following the completion of the education program set forth in subsection b. of this section or following substance abuse treatment as set forth in subsection c. of this section, the records of the violation shall be expunged in accordance with the provisions of section 12 of P.L. , c. (C.) (pending before the Legislature as this bill). Expungement shall not require any action by the person or the payment of any fee.

f. A person may apply for a waiver of court fees and the cost of the substance abuse assessment and treatment set forth in this section by reason of extreme financial hardship. Costs of the substance abuse assessment may be reimbursed from the Drug Education Program Fund established in section 13 of P.L. , c. (C.) (pending before the Legislature as this bill).

12. (New section) Pursuant to the provisions of subsection e. of section 10 of P.L. , c. (C.) (pending before the Legislature as this bill) and subsection e. of section 11 of P.L. , c. (C.) (pending before the Legislature as this bill), the court shall order the expungement of all records and information relating to a violation of section 10 or 11 of P.L. , c. (C.) (pending before the Legislature as this bill). The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to the expungement of such records and no fee shall be charged to the person.

13. (New section) The "Drug Education Program Fund" is established as a dedicated, nonlapsing, revolving fund in the Department of the Treasury. Monies deposited in the fund shall be appropriated to the Department of Health, Division of Mental Health and Addiction Services for drug education programs. Monies shall also be used to reimburse the costs of substance abuse assessment and treatment pursuant to subsection b. of N.J.S.2C:36A-1 and sections 10 and 11 of P.L. , c. (C.) (pending before the Legislature as this bill).

14. (New section) In addition to the provisions of any other law, a person who negligently stores a regulated marijuana-infused product, resulting in a minor under the age of 18 years possessing such product, shall be guilty of a disorderly persons offense.

It shall be prima facie evidence that the person did not act negligently pursuant to this section if he lawfully obtained the regulated marijuana-infused product from a jurisdiction where marijuana sales to adults are authorized under the law of the jurisdiction, and stored the product in its original, child-resistant, labeled packaging. Failure to store a regulated marijuana-infused

19. (New section) The Commissioner of Health, in consultation with the Attorney General, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of P.L. , c. (C.) (pending before the Legislature as this bill).

20. This act shall take effect on the 60th day following enactment.

STATEMENT

This bill would decriminalize possession of 10 grams or less of marijuana and certain marijuana products and impose civil penalties for such possession. The bill would also eliminate all penalties for being under the influence of marijuana.

CIVIL PENALTIES. The bill amends N.J.S.2C:35-10, Possession, Use or Being Under the Influence, to provide that a person who possesses 10 grams or less of marijuana, including any adulterants or dilutants; a "personal-use amount of a regulated marijuana-infused product"; or one gram or less of hashish or marijuana concentrate would be subject to a civil penalty: a fine of \$150 for a first violation, a \$200 fine for a second violation, and a \$500 fine for a third or subsequent violation. The bill would allow the court to waive the penalties in case of extreme financial hardship and under certain other circumstances.

DEFINITIONS. The bill defines "personal-use amount of a regulated marijuana-infused product" as "one or more products, containing a total of no more than 100 milligrams of tetrahydrocannabinol, comprised of marijuana, marijuana extracts, or marijuana resins and other ingredients and intended for personal use or consumption, including but not limited to edible products, ointments, and tinctures, lawfully obtained from a jurisdiction where marijuana sales to adults are authorized under the law of the jurisdiction, in its original, child-resistant, labeled packaging when stored."

The bill defines "marijuana concentrate" as "a product consisting wholly or in part of the resin extracted from any part of the plant Genus Cannabis L. and having a tetrahydrocannabinol concentration greater than 2.5 percent."

CURRENT LAW. Under current law, possession of 50 grams or less of marijuana or five grams or less of hashish is a disorderly persons offense. Possession of more than 50 grams of marijuana or more than five grams of hashish is a crime of the fourth degree, with an enhanced fine of up to \$25,000. A crime of the fourth degree is generally punishable by a term of imprisonment of up to 18 months or a fine up to \$10,000, or both; a disorderly persons offense, by a term of imprisonment of up to six months or a fine of up to \$1,000 or both.

Under subsection b. of N.J.S.2C:35-10, it is a disorderly persons offense to use or be under the influence of any controlled dangerous substance, or its analog, for a purpose other than the treatment of sickness or injury as lawfully prescribed or administered by a physician. This bill provides that it would not be a violation to be under the influence of marijuana.

Subsection c. of N.J.S.2C:35-10 provides that it is a disorderly person offense to unlawfully obtain or possess a controlled dangerous substance, or its analog, and to fail to voluntarily deliver it to the nearest law enforcement officer. The bill provides that this statute would not apply to possession of 10 grams or less of marijuana, a personal-use amount of a regulated marijuana-infused product, or one gram or less of hashish or marijuana concentrate.

N.J.S.2C:36-2 provides that it is a disorderly persons offense to be in possession of drug paraphernalia. Under the bill, this statute would not apply to a person who possesses drug paraphernalia for the use of 10 grams or less of marijuana, a personal-use amount of a regulated marijuana-infused product, or one gram or less of hashish or marijuana concentrate. Instead, the person would be subject to a civil penalty of \$100.

SUBSTANCE ABUSE ASSESSMENT. The bill requires the court to waive the penalties for a single violation within a three-year period upon proof that, within 60 days of the violation, the person completed a substance abuse assessment by a professional licensed by the Division of Mental Health and Addiction Services in the Department of Health to perform such assessments. Under the bill, a person who intends to undergo such an assessment would notify the court, which would schedule the matter for review after 180 days. If proof of completion of the assessment is filed on or before 180 days, the court would waive the penalties without a hearing unless requested by a party. The bill provides that the substance abuse assessment would determine if, and to what extent, the person is a drug dependent person within the meaning of N.J.S.2C:35-2 and would benefit from treatment.

EDUCATION PROGRAM; EXPUNGEMENT OF RECORDS. If the person is determined to not be drug dependent the person would be required to complete a two-hour education program on marijuana and other controlled dangerous substances according to a curriculum developed by the Division of Mental Health and Addiction Services in the Department of Health. The curriculum would include written materials. If the person is not drug dependent, the professional would report to the court that no further action is needed, and the records of the violation would be expunged after the expiration of six months following completion of the education program. Expungement would not require any action by the person or the payment of any fee.

SUBSTANCE ABUSE TREATMENT; EXPUNGEMENT OF RECORDS. The bill provides that if the person is a drug dependent person within the meaning of N.J.S.2C:35-2 and substance abuse treatment

and monitoring would serve to benefit the person by addressing his drug dependency, the court would order him to undergo treatment for drug dependency at a suitable treatment facility licensed and approved by the Department of Health and to comply with the requirements of the course of treatment. The person would be required to submit to periodic testing to determine compliance with treatment program goals. The treatment provider would promptly report to the court any significant failures by the person to comply with any court-imposed term or condition of treatment or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test or the unexcused failure to attend any session or activity.

Under the bill, upon completion of treatment, the agency designated by the court to monitor or supervise the person's treatment would report to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions. Records would be expunged after the expiration of a period of six months. Expungement would not require any action by the person or the payment of any fee.

WAIVER OF FEES AND COST OF ASSESSMENT. The bill provides that a person may apply for a waiver of court fees and the cost of the substance abuse assessment and treatment by reason of extreme financial hardship. Costs of the substance abuse assessment may be reimbursed from the Drug Education Program Fund established in the bill.

POSSESSION IN A MOTOR VEHICLE. Under N.J.S.A.39:4-49.1, a person who operates a motor vehicle while in possession of a controlled dangerous substance or prescription drug without a valid prescription is subject to a fine of not less \$50 and forfeits his right to operate a motor vehicle for two years. The bill provides that these penalties would not apply to possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate.

DISORDERLY PERSONS OFFENSE: NEGLIGENT STORAGE OF REGULATED MARIJUANA-INFUSED PRODUCT. The bill also establishes a new criminal offense. Under the bill, a person who negligently stores a regulated marijuana-infused product, resulting in a minor under the age of 18 years possessing such product, would be guilty of a disorderly persons offense. It would be prima facie evidence that the person did not act negligently if he lawfully obtained the regulated marijuana-infused product from a jurisdiction where marijuana sales to adults are authorized under the law of the jurisdiction, and stored the product in its original, child-resistant, labeled packaging. Failure to store a regulated marijuana-infused product in its original, child-resistant, labeled packaging would be prima facie evidence of negligence.

EXPUNGEMENT OF CERTAIN PRIOR CRIMINAL OFFENSES INVOLVING MARIJUANA. The bill provides that in the case of conviction for the possession of 10 grams or less of marijuana, a personal-use amount of a regulated marijuana-infused product, or one gram or less of hashish or marijuana concentrate that occurred prior to the effective date of the bill, an expungement petition may be filed and presented at any time, without the usual waiting period for expungement. Upon review of the petition, the court would immediately grant the expungement.

CONDITIONAL DISCHARGE FOR FIRST OFFENDERS. The bill amends N.J.S.2C:36A-2, which provides conditional discharge for certain first offenders charged with disorderly persons or petty disorderly persons drug offenses, to mandate drug treatment in certain cases. Under the bill, when a first offender is charged with a disorderly persons or petty disorderly persons drug offense, the court would suspend further proceedings and place the person on supervisory treatment. The person would be required to undergo a diagnostic assessment by a professional licensed or certified to perform such assessments by the Division of Mental Health and Addiction Services in the Department of Health to determine if and to what extent the person is drug dependent and would benefit from treatment. If the person is determined to not be drug dependent he would complete a two-hour education program on marijuana and other controlled dangerous substances, according to a curriculum developed by the Division of Mental Health and Addiction Services in the Department of Health. The curriculum would include written materials. If the professional determines that the person is not drug dependent, the professional would report to the court that no further action is needed, and the records of the violation would be expunged.

If the person is determined to be drug dependent and substance abuse treatment and monitoring would serve to benefit the person by addressing his drug dependency, the court would order the person to undergo treatment for drug dependency at a suitable treatment facility licensed and approved by the Department of Health and to comply with the requirements of the course of treatment. The person would be required to submit to periodic testing to determine compliance with treatment program goals. Upon completion of treatment, the agency designated by the court to monitor or supervise the person's treatment would report to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions. The treatment provider would promptly report to the court any significant failures by the person to comply with any court-imposed term or condition of treatment or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test or the unexcused failure to attend any session or activity. The bill provides that a person may apply for a waiver of court fees and the cost of the substance abuse assessment and treatment by reason of extreme financial hardship.

Costs of the substance abuse assessment may be reimbursed from the Drug Education Program Fund established in the bill.

After the expiration of a period of six months following the completion of the education program or following substance abuse treatment, the records of the violation would be expunged. Expungement would not require any action by the person or the payment of any fee. A person may apply for a waiver of court fees and the cost of the substance abuse assessment by reason of extreme financial hardship.

Under current law, as a term and condition of supervisory treatment under N.J.S.2C:36A-2 the court must suspend the person's driving privileges for a period of six months to two years unless the court finds compelling circumstances warranting an exception. The bill deletes this provision for all persons participating in supervisory treatment under the statute.

Conditional discharge would be available to every defendant unless the court in its discretion concludes that:

(1) The defendant's continued presence in the community, or in a civil treatment center or program, will pose a danger to the community; or

(2) The terms and conditions of supervisory treatment will be inadequate to protect the public and will not benefit the defendant by serving to correct any dependence on or use of controlled substances which he may manifest; or

(3) The person has previously received supervisory treatment under section 27 of P.L.1970, c.226 (C.24:21-27), N.J.S.2C:43-12, or the conditional discharge program.

MUNICIPAL COURT JURISDICTION. The bill would amend N.J.S.2B:12-17, which sets out the jurisdiction of the municipal court, to add jurisdiction for the new civil penalties created by the bill.

DRUG EDUCATION PROGRAM FUND. The bill provides that \$50 of each penalty imposed would be forwarded by the municipality to the State to be deposited in the "Drug Education Program Fund" established pursuant to the bill. The remainder of the penalty monies would be retained by the municipality for the general uses of the municipality. Monies deposited in the "Drug Education Program Fund" would be appropriated to the Department of Health, Division of Mental Health and Addiction Services for drug education programs. Monies in the fund would also be used to reimburse the costs of substance abuse assessment and treatment pursuant to the bill.

APPLICABILITY. The bill encompasses persons convicted and serving sentences for marijuana offenses under current law; persons convicted but not yet sentenced; and persons charged with offenses who have not yet gone to trial or otherwise had the charges resolved, as follows:

-- Any person who is serving a sentence on the effective date of the bill may move to have his sentence reviewed by the sentencing

court, and the court may impose a civil penalty pursuant to the bill, if the person is serving a sentence for a violation of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10 (being under the influence of marijuana, or failing to deliver marijuana to law enforcement); or (3) N.J.S.2C:36-2 (paraphernalia for marijuana use).

-- Any person who has been convicted, but is not yet sentenced, on the effective date of the bill may move to have his conviction overturned by the court, and the court may impose a civil penalty pursuant to the bill, if the person has been convicted of a violation of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10 (being under the influence of marijuana, or failing to deliver marijuana to law enforcement); or (3) N.J.S.2C:36-2 (paraphernalia for marijuana use).

-- Any person who has criminal charges pending on the effective date of the bill would have those criminal charges dismissed, and the prosecutor may charge the person with the civil penalty pursuant to the bill, if the person has been charged with a violation of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10 (being under the influence of marijuana, or failing to deliver marijuana to law enforcement); or (3) N.J.S.2C:36-2 (paraphernalia for marijuana use).

ATTORNEY GENERAL GUIDELINES. The bill requires the Attorney General to issue guidelines for prosecutors and law enforcement to effectuate the provisions of the bill.

COMMISSIONER OF HEALTH GUIDELINES. The Commissioner of Health, in consultation with the Attorney General, would be required to adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of the bill.

MEDICAL MARIJUANA NOT AFFECTED. This bill would not be applicable to any person in compliance with the "New Jersey Compassionate Use Medical Marijuana Act," P.L.2009, c.307 (C.24:6I-1 et al.).

Decriminalizes possession of 10 grams or less of marijuana and personal-use amount of regulated marijuana-infused products; requires substance abuse treatment under certain circumstances.

David G. Evans, Esq.
Attorney at Law, LLC
203 Main St. # 250
Flemington, NJ 08822
908-963-0254

**A LEGAL PRIMER ON:
ENFORCING THE FEDERAL CONTROLLED SUBSTANCE ACT
IN STATES THAT HAVE LEGALIZED MARIJUANA**

July 31, 2017

Issues Presented

Some states have legalized the possession, production, growing and distribution of marijuana including for medical use. In several states this has been highly commercialized. Are these actions legal under federal law? If the actions are not legal, who is subject to prosecution or has other civil legal liability?

Summary Conclusion

Based on an analysis of federal statutes and case law, it is clear that under federal law anyone involved in the possession, production, growing or the sale of marijuana is subject to federal prosecution under the federal Controlled Substances Act (CSA) because the state marijuana laws are preempted by the CSA. [FN1]. They may also be civilly liable.

The state laws are preempted by the CSA

In Gonzales v. Raich, 545 U.S. 1 (2005), the U.S. Supreme Court concluded that local cultivation, possession and distribution of marijuana was prohibited by the CSA under the Commerce Clause of the U.S. Constitution. [FN2] The Supreme Court acknowledged Congress's Commerce Clause authority to ban marijuana production, consumption, and distribution. [FN3]

Marijuana is a Schedule I drug and under federal law and it cannot be prescribed for any medical purpose. A schedule I drug is one that has a high potential for abuse and for which there is no legitimate medical purpose in treatment in the United States and there is a lack of accepted safety for use of the drug or other substance under medical supervision. 21 U.S.C. 812. This was upheld in federal court in 2015 in US v. Pickford, 100 F.Supp.3d 981 (ED CA 2015).

Classification of marijuana as a Schedule I controlled substance is not arbitrary or capricious or a violation of due process. U.S. v. Greene, 892 F.2d 453 (CA6 1989), certiorari denied 110 S.Ct. 2179. As a Schedule I drug, the manufacture, distribution or possession of marijuana is a criminal offense under the CSA. For example:

1. It is unlawful for any person knowingly or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance unless it is in accordance with the CSA. 21 U.S.C. 841(a)

2. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner. This exception does not apply to Schedule I drugs such as marijuana, which has no accepted medical use. 21 U.S.C. 844(a)

3. It is unlawful to use any communication facility such as the Internet to commit felony violations of the CSA. 21 U.S.C. 843

4. It is illegal to conspire to commit any of the crimes set forth in the CSA. 21 U.S.C. 846

5. It is unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances. 21 U.S.C. 856. This applies to landlords.

6. It is unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities. 21 U.S.C. 860

Federal law also states that “[w]hoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.” (18 U.S.C. 3). Under 18 U.S.C. 4, “[w]hoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.”

Are state and local government employees immune from prosecution?

If government employees are involved in affirmative actions to protect, facilitate or oversee the manufacture, distribution, and use of marijuana, they may be in direct violation of federal law. 18 U.S.C. § 4. In United States v. Rosenthal, 454 F.3d 943, 948 (CA 9 2006), it was held that implementation and facilitation of state marijuana laws contrary to the federal Controlled Substance Act (CSA) constitute federal crimes. The CSA provides limited immunity from prosecution for certain actions by State officials, but such immunity is not applicable when public officials in states that have legalized marijuana aid or abet such laws in any way inconsistent with the CSA. Section 885(d) of the CSA provides:

Except as provided in sections 2234 and 2235 of Title 18 [relating to illegal procurement and execution of search warrants], no civil or criminal liability shall be imposed by virtue of this subchapter upon any duly authorized Federal officer lawfully engaged in the enforcement of this subchapter, or upon any duly authorized officer of any State,

territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

However, for an official to be “lawfully engaged” in the enforcement of a law relating to controlled substances, and therefore entitled to protection under statute creating immunity from federal drug laws, the law that the official is “enforcing” must itself be consistent with federal law and the state marijuana legalization laws are not. United States v. Rosenthal, 266 F.Supp.2d 1068, 1078 (ND CA 2003). 21 U.S.C.A. 885(d)

In a recent Colorado Supreme Court case the court considered whether article XVIII, section 14(2)(e) of the Colorado Constitution is preempted by the CSA. Section 14(2)(e) requires law enforcement officers to return medical marijuana seized from an individual later acquitted of a state drug charge. The court held that the CSA prohibits the distribution of marijuana, with limited exceptions. The court found that compliance with section 14(2)(e) requires law enforcement officers to distribute marijuana in violation of the CSA. Because section 14(2)(e) positively conflicts with the CSA, the court found that section 14(2)(e) is preempted. People v. Crouse, 388 P.3d 39 (CO 2017); People v. Crouse, 2015 WL 3745183 (Ct. App. 2015) [FN4]

Consequences of a violation of the CSA

The consequences of violating the CSA include various fines and terms of imprisonment and civil fines and the forfeiture of any property used to facilitate a violation of the CSA. Anyone who possesses, cultivates or distributes marijuana, even if such acts are legal under state law, is subject to federal sanctions. See Gonzales v. Raich, 545 U.S. 1 (2005), and United States v. Oakland Cannabis Buyers' Cooperative, 532 US 483 (2001).

Property owners and landlords

Property owners and landlords who rent or provide a location for marijuana stores are subject to prosecution. It is unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances. 21 U.S.C. 856

Financiers and banks

Those who provide financing for marijuana operations may be subject to prosecution. For example, federal anti-money laundering statutes make it illegal to engage in financial transactions designed to promote illegal activities, including drug trafficking, or to conceal or disguise the source of the proceeds of that illegal activity. 18 U.S.C.1956 and 1957

Physicians

Under some state “medical” marijuana laws, physicians may assist a registered qualifying patient or his caregiver to obtain marijuana. This is far more than just a physician discussing with a patient the use of medical marijuana which may be protected by the First Amendment of the

Constitution. This is taking an action to facilitate the use of marijuana. These actions by a physician may violate federal law by acting with specific intent to provide the patient with the means to acquire marijuana knowing that the patient intends to acquire marijuana. Conant v. Walters, 309 F.3d 629 (CA 9 2002); cert denied Walters v. Conant, 540 U.S. 946 (U.S. Oct 14, 2003)

Medical malpractice

A doctor may be civilly liable to his patient, or a third party, for the adverse consequences of recommending marijuana. A physician who assists a patient to obtain marijuana may face a professional negligence claim for recommending a drug for which no standard of care has been adopted and which has an unknown likelihood of future harm and for which the federal Food and Drug Administration has declared that “no sound scientific studies supported medical use of marijuana for treatment in the United States, and no animal or human data supported the safety or efficacy of marijuana for general medical use” [FN5]

Racketeer Influenced and Corrupt Organizations Act (RICO)

The federal Department of Justice (DOJ) may initiate criminal proceedings under the Racketeer Influenced and Corrupt Organizations Act (RICO). 18 U.S.C. 1962. All property constituting or derived from, directly or indirectly, the proceeds of racketeering activities is subject to forfeiture regardless of any provision of state law. 18 U.S.C. 1963(a)

The RICO statute also gives rise to a civil cause of action which may be brought by a private citizen injured by the racketeering activity where such activity proximately caused the injury. 18 U.S.C. 1964. This was recently upheld in a federal Colorado case. [FN6]

The tax consequences of trafficking in marijuana

Trafficking in marijuana has negative tax consequences even if the sale of marijuana is legal under a state marijuana law. The Internal Revenue Code states:

No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted. 6 U.S.C. 280E (expenditures in connection with the illegal sale of drugs).

Marijuana is a schedule I controlled substance for tax purposes. Provision of marijuana constitutes “trafficking” within the meaning of the Internal Revenue Code section disallowing business expense deductions for expenditures “in connection with the illegal sale of drugs,” even though the activity was pursuant to a state statute. Californians Helping to Alleviate Medical Problems, Inc., v. Commissioner of Internal Revenue, 128 T.C. 173, 93 TCM 3973 (2007).

Conclusion

Anyone who participates in the growing, possession, manufacturing, distribution, or sales of marijuana under state law or aids or facilitates or finances such actions is at risk of federal prosecution or other liability.

About the author

David G. Evans, Esq. is admitted to practice in New Jersey and before the U.S. Supreme Court. He has written amicus briefs in several Supreme Court cases including those having to do with state marijuana laws that are in conflict with federal law. See: 2004 WL 1843964 (Gonzales v. Raich, 545 U.S. 1 (2005); 2001 WL 30659 (U.S. v. Oakland Cannabis Buyers' Co-op., 532 U.S. 483 (2001).

DISCLAIMER

These materials are for informational purposes only and not for the purpose of providing legal advice. You should contact an attorney to obtain advice with respect to any particular issue or problem. Use of and access to these materials does not create an attorney - client relationship between David G. Evans and the user or reader. Mr. Evans cannot vouch for any study cited herein since he did not do the study. The readers should consult the study and make their own interpretation as to its accuracy. Please also be advised that case law and statutory and regulatory laws cited herein may have been amended or changed by the time you read this.

References

[FN1] Congress enacted the CSA for the purposes of consolidating various drug laws into a comprehensive statute, providing meaningful regulation over legitimate sources of drugs to prevent diversion into illegal channels, and strengthening law enforcement tools against international and interstate drug trafficking. 21 U.S.C. 801 et seq.

[FN2] See also, 21 U.S.C.A. 801 et seq.; 21 U.S.C. 841(a)(1), 844; See, United States v. Hicks, 722 F.Supp.2d 829 (E.D. Mich. 2010) (It is indisputable that state marijuana laws do not, and cannot, supercede federal laws that criminalize the possession of marijuana); United States v. \$186,416.00 in U.S. Currency, 590 F.3d 942, 945 (9th Cir. 2010) (there is no exception for marijuana distribution or possession under the federal Controlled Substances Act[.]); United States v. Scarmazzo, 554 F.Supp.2d 1102, 1109 (E.D.Cal. 2008) (Federal law prohibiting the sale of marijuana is valid); United States v. Landa, 281 F.Supp.2d 1139, 1145 (N.D.Cal.2003) (“[O]ur Congress has flatly outlawed marijuana in this country”); Assenberg v. Anacortes Housing Authority, 268 Fed. Appx. 643 (9th Cir. 2008) (holding that a plaintiff's use of marijuana rendered him ineligible to reside in federally subsidized housing pursuant to 42 U.S.C. 13661, and that there was no duty to accommodate his drug use), affd, cert. denied.

[FN3] The Congressional findings in the CSA provide the Commerce Clause and international treaty legal justification for the CSA.

21 U.S.C.A. 801 Congressional findings and declarations: controlled substances

The Congress makes the following findings and declarations:

- (1) Many of the drugs included within this subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.
- (2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.
- (3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because--
 - (A) after manufacture, many controlled substances are transported in interstate commerce,
 - (B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and
 - (C) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.
- (4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.
- (5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.
- (6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.
- (7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances.

[FN4] For contrary cases in lower state courts see: State v. Okun, 296 P.3d 998, 1001–02 (Ariz. Ct. App. 2013); City of Garden Grove v. Superior Court, 68 Cal. Rptr.3d 656, 681 (Cal. Ct. App. 2007); Statev. Kama, 39 P.3d 866, 868 (Or. Ct. App. 2002)

[FN5] FDA STATEMENT - INTER-AGENCY ADVISORY REGARDING CLAIMS THAT SMOKED MARIJUANA IS A MEDICINE

Claims have been advanced asserting smoked marijuana has a value in treating various medical conditions. Some have argued that herbal marijuana is a safe and effective medication and that it should be made available to people who suffer from a number of ailments upon a doctor's recommendation, even though it is not an approved drug.

Marijuana is listed in schedule I of the Controlled Substances Act (CSA), the most restrictive schedule. The Drug Enforcement Administration (DEA), which administers the CSA, continues to support that placement and FDA concurred because marijuana met the three criteria for placement in Schedule I under 21 USC 812(b)(1) (e.g., marijuana has a high potential for abuse, has no currently accepted medical use in treatment in the United States, and has a lack of accepted safety for use under medical supervision).

Furthermore, there is currently sound evidence that smoked marijuana is harmful. A past evaluation by several Department of Health and Human Services (HHS) agencies, including the Food and Drug Administration (FDA), Substance Abuse and Mental Health Services Administration (SAMHSA) and National Institute for Drug Abuse (NIDA), concluded that no sound scientific studies supported medical use of marijuana for treatment in the United States, and no animal or human data supported the safety or efficacy of marijuana for general medical use. There are alternative FDA-approved medications in existence for treatment of many of the proposed uses of smoked marijuana.

FDA is the sole Federal agency that approves drug products as safe and effective for intended indications. The Federal Food, Drug, and Cosmetic (FD&C) Act requires that new drugs be shown to be safe and effective for their intended use before being marketed in this country. FDA's drug approval process requires well-controlled clinical trials that provide the necessary scientific data upon which FDA makes its approval and labeling decisions. If a drug product is to be marketed, disciplined, systematic, scientifically conducted trials are the best means to obtain data to ensure that drug is safe and effective when used as indicated. Efforts that seek to bypass the FDA drug approval process would not serve the interests of public health because they might expose patients to unsafe and ineffective drug products. FDA has not approved smoked marijuana for any condition or disease indication.

A growing number of states have passed voter referenda (or legislative actions) making smoked marijuana available for a variety of medical conditions upon a doctor's recommendation. These measures are inconsistent with efforts to ensure that medications undergo the rigorous scientific scrutiny of the FDA approval process and are proven safe and effective under the standards of the FD&C Act. Accordingly, FDA, as the federal agency responsible for reviewing the safety and efficacy of drugs, DEA as the federal agency charged with enforcing the CSA, and the Office of National Drug Control Policy, as the federal coordinator of drug control policy, do not support the use of smoked marijuana for medical purposes.

<https://wayback.archive-it.org/7993/20170113133051/http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/2006/ucm108643.htm>

The FDA supports research into cannabinoids but has not yet approved crude/botanical marijuana as a medicine. The term "crude/botanical marijuana" describes the illicit Schedule I drug that people abuse. The drug is derived from the leaves and flowering tops of the Cannabis plant and is consumed in a variety of ways. Its leaves are smoked or it is concentrated as an oil (cannabidiol (CBD) or other products made from the plant that are ingested or smoked.

<https://www.fda.gov/NewsEvents/PublicHealthFocus/ucm421163.htm>

<https://www.fda.gov/NewsEvents/PublicHealthFocus/ucm421168.htm>

<https://www.fda.gov/NewsEvents/PublicHealthFocus/ucm484109.htm>

[FN6] Recreational marijuana facility adjacent to plaintiffs's land has *both* interfered with their present use and enjoyment of the land and caused a diminution in its market value. Safe Streets Alliance v. Alternative Holistic Healing, LLC, No. 16-1048 (CA 10, June 7, 2017).

See: <https://www.ca10.uscourts.gov/opinions/16/16-1048.pdf>

Todd G. Raybuck, Police Captain
Las Vegas Metropolitan Police Department
400 S. Martin Luther King, Dr., Las Vegas, NV 89106

**FULL TESTIMONY
BEFORE THE NEW JERSEY LEGISLATIVE BLACK CAUCUS
RECREATIONAL MARIJUANA HEARING
February 21, 2018**

Honorable Senator Rice and distinguished members of the New Jersey Legislative Black Caucus,

Thank you for the opportunity to discuss the impact of marijuana legalization on Nevada. I am a police captain, in my 26th year of law enforcement service to the Las Vegas valley. During my career I have served in many positions including: narcotics detective, demand reduction coordinator, and traffic bureau supervisor. I have received the Nevada Governor's Award for Substance Abuse Education as well as the Director's Award for Distinguished Service from the Office of National Drug Control Policy. I recently transferred from Commander of the Organized Crime Bureau to be the commander of a uniformed patrol bureau. As a law enforcement professional, I have seen firsthand the harmful impact marijuana has had in families, on the roadways, and in my community. I speak to you today as a citizen and concerned parent, worried about the future of our youth who are being told that using marijuana is just part of growing up.

The lure of increased tax revenue and claims of a regulated system that will eliminate the criminal element and repair historical harms to the minority community is intoxicating. Yet, as we are learning in Nevada, the financial gains from the marijuana industry do not adequately support the resources needed to control the effects of marijuana legalization. And, the promises of a regulated industry that will weed-out the illegal marijuana market and improve social conditions in disadvantaged neighborhoods are contrary to the reality.

After huge swaths of money came in from out of state to support legalization, Nevada voted to legalize the production, wholesale, and retail sale of marijuana for personal use in November 2016. On an accelerated timeline, adult retail marijuana sales began in July 2017. Today, there are 61 retail marijuana stores operating in Nevada with 47 of those located in the Las Vegas valley. Only one of the Las Vegas valley marijuana establishments is African-American owned.

The majority of legal marijuana establishments in Nevada are within the jurisdiction of the Las Vegas Metropolitan Police Department. Marijuana legalization has increased the department's responsibilities for marijuana industry owner and employee suitability investigations, legal marijuana

TRV

business compliance checks, neighborhood complaints, and the increased illegal marijuana market. The bulk of marijuana enforcement responsibility falls on local police jurisdictions. Despite these increased manpower needs, none of the state tax revenue from marijuana sales provides any additional local police resources now or in the near future. *Evidence is out*

Nevada currently lacks the statewide data collection apparatus to identify the impact marijuana legalization is having on youth, crime, hospitals, impaired driving, and the black market. Despite this, the Las Vegas Metropolitan Police Department is already seeing a negative impact on crime and the black market. In 2017, homicides related to an altercation over drugs increased 21% compared to 2016. Marijuana was the cause of the altercation in 53% of those homicides. In 2017, 58% of all drug related murders (24) involved marijuana.

Despite the availability of a legal marijuana market, the marijuana black market has also flourished since legalization. The legal possession of one ounce of marijuana has given street dealers the cover to carry marijuana for sale without scrutiny.

Marijuana legalization has led to a significant increase in the illegal marijuana market in the Las Vegas valley. Although legal marijuana customers are limited to the purchase and possession of one ounce of marijuana, there is no system in place to identify customers who make multiple one ounce purchases from different retail establishments. As a result, legally purchased marijuana is being recovered in illegal drug transactions.

After retail marijuana legalization combined illegal marijuana seizures increased 47% in 2017 compared to 2016. Seizures of cannabis products from parcel facilities also increased significantly in 2017: marijuana seizures up 111% and THC edibles up 455%. Seventy-two percent of drug parcels seized in 2017 contained marijuana products. At least 10% of the marijuana recovered in those shipments can be traced back to legal purchases from dispensaries and production facilities. In addition, 2017 seizures of cocaine increased an alarming 567% over 2016. The increase in seizures have occurred despite the lack of increase in police resources.

Furthermore, there is a visible increase in black market marijuana sales and delivery services advertising on the internet and social media sites. Many of these advertisements use an elaborate screening process to prevent interference from law enforcement. One recent pop-up party investigation located more than a dozen illegal marijuana vendors from California setup in a warehouse with more than 50 customers. Upon police entry into the location, the majority of persons fled from the area

leaving behind 120 lbs of black market marijuana, 150 lbs of black market edibles, \$30,000 dollars in cash and two firearms. The true scale of black market operations is still unknown.

Marijuana legalization has also impacted the quality of life in the tourist corridors. Public consumption of marijuana and possession within the gaming properties is illegal. After marijuana legalization, the volume of persons smoking marijuana in public within the tourist corridors has increased significantly. The dense population of tourists hinders police detection of the marijuana users. Gaming resort properties have seen an increase of marijuana use in hotel rooms resulting in the loss of room availability for decontamination that sometimes results in the removal of carpet and upholstery.

Legalizing marijuana retail sales is only the beginning. The newly created retail marijuana industry in Nevada is now lobbying for an expansion of marijuana businesses including marijuana consumption lounges and marijuana themed restaurants, bars, and nightclubs. Attempting to claim a piece of the marijuana trade, illegal pot-trepreneurs have sprung up at non-marijuana licensed businesses and at unlicensed locations. Pot-party buses, marijuana yoga studios, and illegal marijuana delivery services are advertised openly. Las Vegas police do not have the resources to deal with an expanding legal marijuana market let alone the illegal market. Less than half of the illegal marijuana complaints received by Las Vegas Metro narcotics section are able to be investigated.

Unfortunately, we have been led to believe that the only way to resolve the past failures of the drug war and the disparate harms it has caused the minority community is to legalize marijuana. However, Senator Rice's bill to enact civil penalties for possession of small amounts of marijuana is a well-reasoned approach and it should be seriously considered over legalization. Ultimately the decision is up to the elected officials and citizens of New Jersey. The question that begs an answer is will legalizing, normalizing and advertising marijuana sales and marijuana use improve New Jersey's families and communities. In Nevada, that answer is NO.

Black Caucus Hearing on Recreational Marijuana
Wednesday, February 21, 2018
The City Line Church
1510 John F. Kennedy Boulevard
Jersey City, NJ

I want to thank you for the opportunity to provide testimony today. My name is William Fusco and I am the Executive Director of Dynamic Youth Community, Inc. (DYC). Founded in 1970, DYC was created to address substance abuse issues affecting adolescents, young adults and their families. DYC is a New York State licensed and funded treatment program. We have three facilities: an intensive 86-bed residential program in Fallsburg, an outpatient program in Brooklyn and a community residence also in Brooklyn. Overall, we service over 350 young people and their families each year. For over a decade the majority of the young people seeking our help come in addicted to opioids. In our 48 year history we have remained committed to our mission.

In addition to my position as Executive Director of DYC, I also serve on a number of committees in New York State and nationally. Some of the NYS committees I serve on are the Coalition for Community Services, Therapeutic Communities Association of New York, Inc. and the NYS Association of Substance Abuse Providers, Inc. I am also a board member of Treatment Communities of America, a national organization representing substance abuse and mental health non-profit treatment programs. The mission for all the coalitions I belong to is to educate local, state, and federal officials and agencies, and private sector organizations of the prevention and treatment of substance abuse and to address the needs of people suffering from abuse and addiction.

I am here today to caution you about the ramifications of legalized marijuana – especially as it relates to young people. Working in this field for over four decades I have seen many trends in terms of the drugs young people choose to use. First and foremost in their choices is availability.

I want to talk for a few minutes about the opioid epidemic that is sweeping our country. Taking children away from their parents, parents away from their

children, friends away from friends, the list goes on and on. Everyone knows someone. In our experience and stated over and over again from the families and young people we serve, people see prescription drugs as safe. Safe because the makers of these drugs tell us they are safe – safe because our doctor prescribes them – safe because our friend or neighbor gave them to us. The idea that these drugs were safe and would only be used as directed is one of the biggest reasons we are in an epidemic today. There is no debating that. While there are other factors that have attributed to this atrocity we can't deny the power of influence.

It is important for me to tell you that in working with young people we often see the trends before seeing them globally. In the late 1990's we had an influx of young people coming in to our program reporting misuse of prescription drugs. Most reported that they obtained the drugs at a party, from their parent's medicine cabinet or someone they trusted gave it to them. Most didn't even know they were addicted until they experienced flu like symptoms or desperation set in when they couldn't access drugs. As the stories grew more and more common and the families grew more desperate we, as an organization reached out to several state officials to warn them of the trends we were seeing. Unfortunately, at the time, the warning fell on deaf ears. It didn't stop us from learning as much as we could about opioid addiction. We are now seen as an organization at the forefront of combatting this terrible epidemic. I spent this time talking to you about the opioid problem to make a comparison – not a comparison to marijuana vs. opioids, rather a comparison to the attitudes of complacency that brought us to where we are today.

100% of our admissions report that their drug history began with Marijuana. It is a gateway drug for adolescents and young adults. Using marijuana at a young age increases their chances of using illicit drugs later in life. There are numerous studies that talk about the effects of marijuana on the adolescent brain – studies show that everything from memory, attention, learning, cognitive skills, school performance, and behavior problems can be attributed to marijuana use at an early age.

To think that by legalizing Marijuana it will keep it out of the hands of our youth – it's ridiculous. There is a drug culture that exists among young – we all know about – we all see it. Normalizing a drug will only lead to higher level of acceptance; did we learn nothing from the opioid epidemic?

Legalization of recreational Marijuana in New Jersey will affect the entire tri-state area. The notion of traveling over one bridge or through one tunnel will not deter someone seeking drugs. Is it worth the risk to put so many in danger? Yes, there are studies, studies that claim using Marijuana recreationally is not dangerous. What about those with mental health issues? What about people who are recovering from a substance abuse problem? How are we to tell who from who.

The points I have raised today do not come from speculation. My points and comments are true statements derived from four decades of experience working with substance abusers. I urge you to take my experience and consider the ramifications of legalized recreational Marijuana – in my opinion the danger far out weighs any of the benefits that have been suggested by some.

Thank you for your time.

Respectfully submitted,

William A. Fusco, Executive Director
Dynamic Youth Community, Inc.
1830 Coney Island Avenue
Brooklyn, NY 11230
718.376.7923
Email: WFusco@dycinc.org

**Written Testimony on Recreational Marijuana Legalization
Black Caucus Hearing
Jersey City, New Jersey
February 21, 2018**

Luke D. Niforatos
Chief of Staff & Sr. Policy Advisor, Smart Approaches to Marijuana (SAM)
<http://www.learnaboutsam.org>

This testimony is based on my own expertise and that of over a dozen top scientists who serve on the Advisory Board of Smart Approaches to Marijuana (SAM). Co-founded by former U.S. Representative Patrick Kennedy, SAM is the leading non-partisan, non-profit national organization offering a science-based approach to marijuana policy.

I have worked in the health care and public health environment for nearly a decade, from nonprofit behavioral health-integrated community health centers to large hospital systems. I am now Chief of Staff and Senior Policy Advisor at SAM. I received my Bachelor of Arts in Communication from the University of Denver and recently moved to Virginia from the state of Colorado, where I had lived the past twenty years.

Legalization of recreational marijuana is bad policy and should be opposed. As a Coloradan, I can tell you the toll of legalized marijuana has been intense. Clouds of marijuana smoke cover the city of Denver and a state once known as destination for health and fitness has become known for drug use. The multi-billion-dollar marijuana industry places billboards, posters, stickers, and ads on every form of media across the state encouraging use of high-THC edibles such as ice cream, gummies, and brownies. They have even used cartoon characters to promote their products in my state. I urge you to consider the consequences of this environment when you think about the future of your state.

Legalization of recreational marijuana is wrong for New Jersey. This policy has manifested major public health and safety problems for Colorado and it will certainly result in many other negative consequences for New Jersey, for six main reasons:

- (1) Legalization of recreational marijuana would increase drug use among New Jersey kids;
- (2) Legalization of recreational marijuana would be a strain on New Jersey's budget;
- (3) Legalization of recreational marijuana will reinforce, not diminish, the black market for marijuana, especially because the amounts allowed for home grows are excessive;
- (4) Legalization of recreational marijuana will aggravate drugged driving, creating costs likely to outweigh revenues;
- (5) Legalization of recreational marijuana would be a burden for New Jersey's employers and business community;

A. Public health impact

The addictive nature and negative health effects of marijuana are numerous. While there is much research on these effects, little coverage and notification has been provided to the public of the alarming impact they are having on my home state of Colorado. This is likely in part because many prominent reporters in Colorado are now being paid by the Big Marijuana industry.¹

The only nationally representative study on marijuana use, the National Survey on Drug Use and Health (NSDUH), indicates that Colorado currently holds the top ranking for first-time marijuana use among youth, representing a 65% increase in the years since legalization.² Young adults age 18-25 continue to increase in marijuana use, well above the national average.

Of particularly grave concern in the field of public health is the increase in hospital and emergency room utilization after legalization. In Colorado, the annual rate of marijuana-related emergency room visits increased 35% between the years 2011 and 2015.³ Making matters worse is the fact that these marijuana emergency room visits have also increased among children and adolescents.⁴ Additionally, calls to poison control centers have risen 210% between the four-year averages before and after recreational legalization.⁵

The burden on emergency departments stemming from the type of patient care required and the resulting financial implications have been large for hospitals in Colorado.⁶ Considering the financial impact as well as the overall implications for public health, the legalization of this drug is completely unsustainable. This is why national medical associations do not support marijuana legalization. For example, the American Medical Association states that, “cannabis is a dangerous drug and as such is a public health concern; the sale should not be legalized.”⁷ The

¹ Westword. <http://www.westword.com/news/marijuana-dispensary-chain-terrapin-care-station-hires-political-reporter-peter-marcus-9366884>

² National Survey on Drug Use and Health. (2006-2016). State use estimates [Data file]. Retrieved from <https://www.samhsa.gov/data/population-data-nsduh>

³ Colorado Department of Public Health & Environment, Colorado Violent Death Reporting System. (2017). Colorado Suicide Dashboard. Retrieved November 22, 2017, from https://cohealthviz.dphe.state.co.us/t/HSEBPublic/views/CoVDRS_12_1_17/Story1?:embed=y&:showAppBanner=false&:showShareOptions=true&:display_count=no&:showVizHome=no#4

⁴ Colorado Hospital Association. (2016). As reported in *Monitoring Health Concerns Related to Marijuana in Colorado*. Retrieved Jan 20, 2018 from https://www.researchgate.net/profile/Katelyn_Hall2/publication/316885353_Monitoring_Health_Concerns_Related_to_Marijuana_in_Colorado_2016/links/591631b40f7e9b70f49dc1b2/Monitoring-Health-Concerns-Related-to-Marijuana-in-Colorado-2016.pdf

⁵ Rocky Mountain Poison and Drug Center. (2017). Retrieved December 22, 2017, from <http://www.rmhidta.org/html/FINAL%202017%20Legalization%20of%20Marijuana%20in%20Colorado%20The%20Impact.pdf>

⁶ Finn, K. (2015). The hidden costs of marijuana use in Colorado: One emergency department’s experience. *Journal of Global Drug Policy and Practice*, 10(2), 1–26. Retrieved February 3, 2018, from http://www.globaldrugpolicy.org/Issues/Vol_10_Issue_2/Articles/The_Hidden_Costs_of_Marijuana_Use_in_Colorado_Final.pdf

⁷ Report 2 of the Council on Science and Public Health (I-13), A Contemporary View of National Drug Control Policy. (2013). American Medical Association. Retrieved from <https://www.ama-assn.org/sites/default/files/media->

American Academy of Pediatrics and American Academy of Adolescent Psychiatry, and American Society of Addiction Medicine all have serious concerns about marijuana and oppose legalization.⁸

B. Legalization of recreational marijuana would be a strain on New Jersey's budget

When costs are counted, legalized recreational marijuana will not bring in revenue for the state of New Jersey. The social costs associated with marijuana far outweigh any revenue that it brings in. SAM has conducted many studies to this effect that you will hear in subsequent testimonies. In Colorado, we have certainly see this to be the case. In fact, in the first election year after legalization we were asked for an additional education tax- when we were promised marijuana taxes would cause our schools to overflow with funding.

The Denver Post had a headline recently that stated, "Why pot taxes can't solve Colorado's budget problems."⁹ The Colorado Independent also reported that pot taxes weren't the solution to the budget.¹⁰ Living in Colorado, it is apparent the tax revenue has not increased our quality of life but instead handed a multi-billion-dollar drug industry the keys to our state. Adding insult to injury, the Colorado bureaucracy to regulate the industry continues to consume a large percentage of what revenue is made.¹¹

Every year, there will always be claims of a silver bullet for the budget. Yet, as history shows us, every year, there is always need for something more. Marijuana will not be a workable, pragmatic, or even helpful solution in the short or long term.

C. Legalization will reinforce, not diminish, the black market for marijuana

Perhaps most importantly, legalization of recreational marijuana will roll out the red carpet for a larger black market for pot than currently exists. Although this may initially sound counterintuitive, a closer look at what has happened in Colorado (where recreational marijuana was legalized in 2012) reveals why.

In February 2015, years after legalization passed, Colorado Attorney General Cynthia Coffman told reporters: "The criminals are still selling on the black market. ... We have plenty of cartel activity in Colorado [and] plenty of illegal activity that has not decreased at all."¹²

[browser/public/about-ama/councils/Council%20Reports/council-on-science-public-health/i13saph2-summary-only.pdf](https://www.learnaboutsam.org/the-issues/public-health-organizations-positions-on-medical-marijuana/).

⁸ Public Health Organizations' Position on Medical Marijuana. [Web post, Smart Approaches to Marijuana]. (2016) Retrieved from <https://www.learnaboutsam.org/the-issues/public-health-organizations-positions-on-medical-marijuana/>.

⁹ The Denver Post. <https://www.denverpost.com/2016/08/12/why-pot-taxes-cant-solve-colorados-budget-problems/>

¹⁰ Colorado Independent. <http://www.coloradoindependent.com/157618/marijuana-tax-wont-fix-colorados-budget-woes>

¹¹ McGovern, B. (2015, June 12). Colorado weed czar: Revenue up in smoke. *Boston Herald*. Retrieved from http://www.bostonherald.com/news_opinion/local_coverage/2015/06/colorado_weed_czar_revenue_up_in_smoke.

¹² "Special report, 'Clearing the haze:' Black market is thriving in Colorado." *Colorado Springs Gazette*, 20 Mar. 2015. Retrieved from <http://gazette.com/special-report-clearing-the-haze-black-market-is-thriving-in-colorado/article/1548305>.

To further reinforce the spread of black market activity, a special media investigation revealed in 2018 that a record number of packages were mailed to or from Colorado through the U.S. Postal Service, up to 934 from 805. The number was 234 in 2012.¹³ This is especially thriving in rural areas due to the difficulties involved in distinguishing between legal and criminal marijuana farms. About \$6.5 million worth of illegal marijuana was confiscated by federal agencies in the White River National Forest in Aspen, Colorado, and 9,200 illegal marijuana plants were found growing on islands in the middle of the Colorado River.¹⁴

The surge in black marketeering derives from organized criminal groups “hiding in plain sight” in legalized states.¹⁵ Marijuana growing and sales no longer attract the type of attention they did prior to legalization—and the taxes imposed on state-legalized pot necessary to pay for all the bureaucratic oversight create a large demand for cheaper product that the black market easily fills. Legalizing recreational marijuana will create similar incentives.

Drugged Driving

Marijuana-impaired driving is increasingly responsible for traffic fatalities in Colorado since pot legalization was established there. Marijuana is now involved in more than one of every five deaths on the road, and that number is rising.¹⁶ The number of drivers in Colorado intoxicated with marijuana and involved in fatal traffic crashes increased 88% from 2013 to 2015.¹⁷ Marijuana-related traffic deaths increased 66% between the four-year averages before and after legalization.¹⁸

The issue of drugged is a significant problem and much worse given the many families across this country who are bereft of their loved ones as a result of irresponsible state marijuana laws. Colorado has given control of the narrative around this drug to Big Marijuana, a profit-hungry

¹³ Larson, D. (2018). Record number of mailed marijuana packages caught by feds in Colorado last year. *Denver 7 News*. Retrieved February 9, 2018, from <https://www.thedenverchannel.com/news/investigations/record-number-of-mailed-marijuana-packages-caught-by-feds-in-colorado-last-year>

¹⁴ Associated Press. (2017, September 29). Federal agencies raid pot grow operation in Aspen area. *Denver News*. Retrieved February 3, 2018, from <https://www.usnews.com/news/best-states/colorado/articles/2017-09-29/federal-agencies-raid-pot-grow-operation-in-aspen-area>

¹⁵ Durbin, Kaitlin. “Colorado Springs mayor: Day of reckoning coming for city’s illegal marijuana growers.” *Colorado Springs Gazette*. 28 May 2016; Gurman, Sadie. “Drug traffickers ‘hiding in plain sight’ amid legal Colorado marijuana.” *The Cannabist*. 28 Jan. 2016.

¹⁶ Fatality Analysis Reporting System and Colorado Department of Transportation (CDOT), as reported in Rocky Mountain HIDTA Investigative Support Center Strategic Intelligence Unit. *The Legalization of Marijuana in Colorado: The Impact*, Volume 4. Sept. 2016. Web. 23 Oct. 2016.

¹⁷ Migoya, D. (2017, August 25). Exclusive: Traffic fatalities linked to marijuana are up sharply in Colorado; Is legalization to blame? *Denver Post*. Retrieved February 3, 2018, from <https://www.denverpost.com/2017/08/25/colorado-marijuana-traffic-fatalities/>

¹⁸ National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS) 2006-2011 and Colorado Department of Transportation 2012-2016. Retrieved February 6, 2018, from <http://www.rmhidta.org/html/FINAL%202017%20Legalization%20of%20Marijuana%20in%20Colorado%20The%20Impact.pdf>

industry that is not looking after public safety. I implore you to not let New Jersey go the way my state did and turn your roads into a public hazard.

D. Employers

Marijuana legalization also involves significant risks to existing businesses. According to the National Council on Alcoholism and Drug Dependence (NCADD), illegal drug use is responsible for annual economic losses of over \$80 billion.¹⁹ As marijuana is by far the most widely used illegal drug, it is unsurprising that its use would trigger significant losses on its own.²⁰

Unlike cigarettes, marijuana's psychoactive properties intoxicate and create tangible problems in the workplace. A peer-reviewed study of thousands of employees indicated that marijuana users were unjustifiably absent from work 77 percent more often than non-users, and had a rate of workplace injuries 85 percent higher than that control group.²¹ (They were also involved in workplace disciplinary incidents as a rate 55 percent higher than the control group,²² but there is less data available to quantify the costs of such behavior on employers' bottom line.)

As marijuana use has increased in states that have legalized its use, so has use by employees, both on and off the job. Data from major drug testing firm Quest Diagnostics, which analyzes the results millions of workplace drug tests each year, reported in the year following legalization, marijuana positivity rates with urine tests in Colorado increased 20 percent compared to the five percent average increase among the U.S. general workforce.²³

Large businesses in Colorado also now state that after legalization, they have had to hire out-of-state residents to find employees that can pass a pre-employment drug screen. The CEO of the large Colorado construction company GE Johnson has said his company "has encountered so

¹⁹ *Drugs and the Workplace* (Issue brief). (n.d.). Retrieved March 29, 2017, from National Council on Alcoholism and Drug Dependence Inc. website: <http://www.ocpa-oh.org/Drugs%20and%20the%20Workplace.pdf>.

²⁰ Recent incidents in the United States and abroad underline this point. The engineer involved in a 2016 train crash that killed two line workers in Pennsylvania tested positive for marijuana use after the wreck, per a National Transportation Safety Board report. Halsey, A., III. (2017, January 26). *Amtrak engineer in fatal crash tested positive for marijuana, NTSB says*. Retrieved March 29, 2017, from https://www.washingtonpost.com/local/trafficandcommuting/amtrak-engineer-in-fatal-crash-tested-positive-for-marijuana-opioids-ntsb-says/2017/01/26/27e7fba6-e3f0-11e6-a453-19ec4b3d09ba_story.html?utm_term=.ab53162c3c70.

And more recently, two employees at a German BMW plant who got high just before reporting to their stations caused over \$1 million in losses after they caused an assembly line stoppage. Brown, A. (2017, March 20). *Stoned Assembly Line Workers Cost BMW \$1 Million in One Day, Report Claims*. Retrieved March 29, 2017, from http://www.thedrive.com/news/8449/stoned-assembly-line-workers-cost-bmw-1-million-in-one-day-reportclaimsutm_content=inf_10_3522_2&xid=socialedge_pd&tse_id=INF_930fda1010c911e7af245d7f4020bc76.

²¹ Zwerling, C., (1990). "The Efficacy of Preemployment Drug Screening for Marijuana and Cocaine in Predicting Employment Outcome." *JAMA: The Journal of the American Medical Association*. 264.20. 2639.

²² *Id.*

²³ Quest Diagnostics. Workforce drug test Positivity rate increases for the First time in 10 years, driven by marijuana and amphetamines, finds quest diagnostics drug testing Index™ analysis of employment drug tests. *Quest Diagnostics Newsroom*, 11 Sept. 2014.

many job candidates who have failed pre-employment drug tests because of their THC use that it is actively recruiting construction workers from other states.”²⁴

E. Conclusion

Regardless of good intentions, legalization of recreational marijuana is bad policy. It will increase marijuana use (including among children), make New Jersey roads more dangerous, reduce businesses’ productivity, and target communities of color. I would like to share with you the story of why my wife, 15-month-old daughter and I moved across the country to Washington, D.C. to work on this issue. We have lived in Colorado for nearly our entire lives. The city of Denver has always been among the most beautiful and known for its quality of life, air, and fitness. We used to love taking our baby daughter on walks through our neighborhoods in the Denver area. However, with the dramatic rise in marijuana use after legalization, we had to stop taking her out on walks due to incessant marijuana smoke filling her stroller and presumably her lungs. When we would go on drives, one of the 1,014 pot dispensaries in the state (compared to 300 Starbucks and McDonald’s combined) was always nearby and could be smelled in our car.²⁵ This is not the kind of experience any family should have in this country and this is wrong for New Jersey. I am here first of all because I want to save my state from its terrible mistake, but even more than that, to urge decision-makers in other states (such as New Jersey) to run from the terrible mistake we made in our state. For those reasons, I urge you to join every major medical association in the country by not supporting recreational marijuana legalization.

²⁴ “Drug use a problem for employers.” Editorial. *Colorado Springs Gazette*, 24 Mar. 2015.

²⁵ Rocky Mountain High Intensity Drug Trafficking Area. (2017). The legalization of marijuana in Colorado: The impact. Retrieved February 3, 2018, from <http://www.rmhidta.org/html/FINAL%202017%20Legalization%20of%20Marijuana%20in%20Colorado%20The%20Impact.pdf>

Written Testimony on Recreational Marijuana Legalization
Black Caucus Hearing
Jersey City, New Jersey
February 21, 2018

Will Jones III

Communication and Outreach Associate, Smart Approaches to Marijuana (SAM)

<http://www.learnaboutsam.org>

Racial disparities in arrest rates for drugs are a well-documented (and lived) reality. For decades, drug policy has contributed to skyrocketing incarceration rates among minority populations. However, that marijuana legalization is promoted as a victory for racial justice is ironic at best. Just look at marijuana's counterparts, the alcohol and tobacco industries. It is an unjustified reality in many Black communities that a child cannot take a walk without passing a liquor store on every corner. And they cannot even see inside other convenience stores because of the cigarette and alcohol advertisements plastered on the windows. Liquor stores in poorer, non-White neighborhoods far outnumber those in richer, White counterparts.^{1,2} People tell us that we should regulate marijuana like alcohol and that is what scares me.

Already the marijuana industry—comprised almost entirely of White men—is copying the successful playbook of the alcohol industry. In Denver, the epicenter of legalized weed, lower-income, Brown and Black neighborhoods are already experiencing this. In one minority neighborhood, there is one pot business for every 47 residents.³

The increased availability of marijuana in these neighborhoods matters, because while some will argue that marijuana isn't harmful, the science says otherwise. Marijuana users are three times more likely to become addicted to heroin than non-users,⁴ and frequent pot use by kids is correlated with higher possibilities of welfare dependency and permanent IQ loss.⁵

¹CDC. African Americans and tobacco use. CDC, 17 Aug. 2016; U.S. Department of Health and Human Services. Tobacco Use Among U.S. Racial/Ethnic Minority Groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 1998.

² CDC. African Americans and tobacco use. CDC, 17 Aug. 2016; National Cancer Institute. The Role of the Media in Promoting and Reducing Tobacco Use. Smoking and Tobacco Control Monograph No. 19, NIH Pub. No. 07-6242, June 2008; Gardiner PS. The African Americanization of Menthol Cigarette Use in the United States. Nicotine and Tobacco Research 2004; 6:Suppl 1:S55-65; Ton HT, Smart AE, Aguilar BL, et al. Menthol enhances the desensitization of human alpha3beta4 nicotinic acetylcholine receptors. Mol Pharmacol 2015;88(2):256-64; Smokefree.gov. Menthol Cigarettes. Bethesda (MD): U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute, 2015.

³Migoya, David, and Baca, Ricardo. "Denver's pot businesses mostly in low-income, minority neighborhoods". *The Denver Post*, 2 Jan. 2016.

⁴ National Survey on Drug Use and Health (NSDUH), 2011-2013.

⁵ Weir, Kirsten. "Marijuana and the Developing Brain." Monitor on Psychology, American Psychological Association, Nov. 2015, www.apa.org/monitor/2015/11/marijuana-brain.aspx.

Contrary to the argument that marijuana legalization will promote criminal justice, we've seen that legalization has not produced reductions in incarceration. Advocates of legalization often point out how "marijuana arrests" have plummeted because of legalization and laud this as a victory for social justice. While the finding itself is true, it is not a victory for social justice for two reasons.

There are two main metrics that we can look at when evaluating the impact of the criminal justice system in minority populations. The first is the raw percentage of the prison population that is comprised of minorities, compared to the percentage of the state population that they comprise. The second is the rate of incarceration of minorities for a particular crime versus others for doing the same thing. In order for legalization to be hailed as having had a positive impact, it should cause a reduction in the minority prison population as well as an equalization in racial disparities of marijuana-related arrests. Legalization has done neither. Disturbingly, according to state data⁶, in states that have legalized since 2014, the overall prison population has stayed stable and in some states like Colorado* and Washington D.C. it has risen sharply after years of decline is projected to continue to rise with no discernible change in demographics. Only Alaska which has the tenth lowest population of African-Americans at just 23,263 according to 2010 census data⁷ has shown a significant decline since legalization and it is projected to continue. In Colorado, you are still twice as likely to be arrested for marijuana related violation if you are black than if you are white.

These stats should not surprise us. After all if the real issue is systemic injustice and discrimination, do we really think that changing a law will change the hearts and practices of discriminatory officers and departments? If prior to legalization a corrupt officer would unfairly incarcerate someone for marijuana, then post legalization said officer will simply change his excuse and arrest someone for some other trivial matter -- perhaps claiming they have too much marijuana (more than 2 ounces) or some other trivial matter - say taillights. Remember why Eric Garner was killed? It was over cigarettes -- a legal drug.

If marijuana was the main tool or crutch of injustice in the criminal justice system, then it would stand to reason that legalizing would have a major impact on the overall prison population. However, if the main problem is the policing practices, then as we are seeing, legalization has no discernible impact. Worse than that, we are seeing that legalization has

⁶ <https://www.colorado.gov/pacific/dcj-ors/ors-prisonpopproj>; <https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/budget-drivers/prison-inmate-population>; <https://doc.dc.gov/page/inmate-demographics-and-statistics>; http://www.oregon.gov/doc/resrch/pages/inmate_population.aspx; <http://www.correct.state.ak.us/>

* In the year 2016 Colorado showed a 4.9% decline in prison population which according to the *Colorado Office of Research and Statistics Division of Criminal Justice* occurred primarily in one quarter of the year and is attributed to legislation (Senate Bill 124) that Colorado passed which changed how technical parole violations were dealt with pushing people towards treatment and training as necessary rather than sending them back to prison. Germaine to this discussion, that legislation is an example of positive criminal justice reform and something that has actually led to a reduction in the rate of incarceration as well as the overall prison population -- something marijuana legalization has yet to show it can do. Unfortunately, after that temporary reduction in the overall prison population in 2016, the rate of incarceration has continued to rise and is projected to continue.

⁷ <https://www.census.gov/2010census/popmap>

increased the school to prison pipeline for people of color. In the two years after Colorado legalized marijuana, the number of Hispanic and Black kids arrested for marijuana-related offenses rose 29 and 58 percent, respectively. In the same period, the number of White kids being arrested for identical crimes dropped eight percent.⁸ And in schools that had 25% or fewer youth of color, there were 313 marijuana-related suspensions compared to 658 marijuana-related suspensions in schools comprised of populations with 76% or more youth of color.⁹ All of this is especially alarming given that adolescents who smoke marijuana once a week are almost six times more likely than nonsmokers to drop out of school and over three times less likely to enter college.¹⁰

Where is the social justice in that? And more tellingly, where are the protests by (mostly White) legalization activists now? Their silence is deafening. Now that they've pocketed their cash, they seem undisturbed by what happens in non-White communities. Ultimately, legalization only exacerbates social justice issues by prompting well-meaning citizens to think that they have "done something" for civil rights by voting for pot, instead of actually engaging in the hard work that promotes institutional change.

To continue to legalize and commercialize marijuana is to continue to allow an addictive industry to profit off minorities and the marginalized. It's time for us to wake up and realize that legalizing marijuana only reinforces the pillars of racial inequality in our country.

⁸Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics. *Marijuana Legalization in Colorado: Early Findings*. Denver, Mar. 2016.

⁹ Colorado Department of Public Safety. (2016). *Marijuana legalization in Colorado: Early findings*. Retrieved February 3, 2018, from <https://cdpsdocs.state.co.us/ors/docs/reports/2016-SB13-283-Rpt.pdf>

¹⁰ Fergusson, D.M., et al. (2003). Cannabis and Educational Achievements. *Addiction*, 98(12).

Testimony before the NJ Legislative Black Caucus – Recreational Marijuana Hearings

Cityline Church
1510 John F. Kennedy Blvd.
Jersey City, NJ 07305

LTC Kamal Singh Kalsi, D.O., FACEP, U.S.A.R.
February 21, 2018

Good afternoon, Senator Rice, Assemblywoman McKnight and esteemed members of the Legislative Black Caucus.

My name is Lieutenant Colonel Kamal Singh Kalsi. I've served in the U.S. Army for 17 years. I am a practicing Emergency Medicine Physician and an active member of Doctors for Cannabis Regulation (DFCR). I also served as a co-chair for Governor Murphy's Military and Veterans Affairs transition team. One quick disclaimer I'd like to add before we begin today is that my testimony today reflects my own opinions, and does not reflect the opinions or positions of DOD, the U.S. Army or the Murphy administration. I will also submit that I am neither the Mayor of Hoboken nor the Attorney General of our great state. I am simply their younger and better-looking brother from another mother.

In the wake of 9/11, people would stare at my turban and ask me "So where are you from?" I've always smiled back and told them "I'm from Jersey." New Jersey has been my home for nearly 4 decades. It's where I first met my beautiful wife. It's where I raise my two wonderful kids. I am the son of refugees from India's partition and have worked hard fighting for religious freedom, diversity and equality in our nation's military.

When I deployed to Afghanistan along with my fellow soldiers, we took care of some devastating injuries. Many that I served with came back with severe depression, anxiety, depression and chronic pain. Our current medical practice is to load these patients up with a cocktail of opiates, benzodiazepines and anti-depressants. When that doesn't work, these soldiers resort to alcohol consumption which leads them in a downward spiral towards many self-destructive behaviors.

But then I saw one of these veterans on the brink of destruction come off all of his prescription medications and once again become a productive member of society. He told me that he was able to treat his chronic pain, anxiety, PTSD and depression with cannabis. "It saved my life Doc..." he told me with tears in his eyes. I have seen the positive benefits of medical marijuana time and time again.

I've been working as an Emergency Room Physician for over a decade and when I see morbidity and mortality from toxic substances, it's usually alcohol, opiates, cocaine, or methamphetamines. I've never had anyone die from marijuana use. Nationally, the CDC reports that not a single death can be attributed to marijuana use. In fact, scores of people die annually from motrin and Tylenol but you don't need a doctor's prescription to give those medications to your children.

As a physician and spokesperson of DFCR, I am appalled at the willful misrepresentation of the facts offered here today at your hearing. I urge the panel to sit down with the boots on the ground to get hard scientific facts and first-hand opinions from the physicians that serve our New Jersey populous. At DFCR, we have a prestigious roster of physicians, including former Surgeon General Joycelyn Elders and integrative medicine pioneer Andrew Weil. DFCR is the first and

only national medical association dedicated to the legalization, taxation and – above all – the effective regulation of marijuana in the United States. DFCR has members in nearly every state and US territory, but more importantly, it was founded right here in New Jersey.

DFCR does not promote cannabis use for everyone. Rather, we advocate for the legalization of cannabis for adults, because effective regulation requires a legalized and controlled environment. We therefore support a core set of common-sense measures – our “Platform of Regulations”^{III} – to control the marijuana industry and protect public health.

We believe that the government should oversee all cannabis production, testing, distribution, and sales. Cannabis products should be labeled with significant detail, including (but not limited to) THC and CBD levels, dosing information and ingredients. They should be free from pesticides, heavy metals and other contaminants. There should be restrictions on marketing and advertising of cannabis products. Cannabis packaging and advertising that targets or attracts underage users should be completely prohibited. All cannabis products should have child-resistant packaging. There should be harsh penalties for adults who enable diversion of cannabis to minors. Taxation of the cannabis trade should be used to fund research, education, and prevention, including public information for adults on the use and misuse of cannabis and youth programs that emphasize the risks of underage cannabis use.

And since cannabis prohibition has worsened the poverty of the impoverished – particularly in communities of color – DFCR believes that the government has an obligation to rebuild the communities disproportionately affected by the war on drugs. The war on drugs has failed worse than President Trump’s toupee on the tarmac. We need something better to make America great again.

In this regard, there can be no freedom for these disaffected communities without justice. We must expunge the criminal records of individuals convicted of minor cannabis crimes and ensure diversity in the cannabis industry. We must learn from the successes and mistakes of other states and make sure that New Jersey creates a cannabis industry that is safe, responsible and a model for the rest of the nation.

If we don’t act, drug cartels and the marijuana black market will continue to thrive and injure our youth with adulterated product. In fact, the DEA regularly tests black market drugs and finds that on average that they are mixed with other substances more than 50% of the time. When a cancer patient is on the streets looking for some marijuana to help relieve her suffering, she might inadvertently be taking cannabis mixed with formaldehyde, heroin, cocaine, LSD or PCP. New Jersey residents are forced to interact with a dangerous, uncontrolled black market and are, in essence, forced to interface with criminal elements that may needlessly endanger their lives. Critically, however, legalization and decriminalization of marijuana will help to competitively inhibit abuse of truly dangerous drugs like alcohol, cocaine and opiates.

Esteemed members of the Legislative Black Caucus: The time has come to end the failed and harmful prohibition of marijuana in the State of New Jersey.

Our beloved state knows all too well the destruction brought by well-intended but sadly misguided efforts by society to control addiction through prohibitions. From the violence in the streets of Atlantic City that literally gave birth to this country’s organized crime during Alcohol Prohibition, to the violence in the streets we see today, New Jersey has paid a heavy price for the heavy-handed criminal approach to addiction, which is fundamentally a health problem, not a moral one.

Alcohol Prohibition was repealed after just thirteen years because of unintended consequences: organized crime, increased use of hard alcohol, and government waste.

So, what have we gotten from our eighty-year experiment with marijuana prohibition? Organized crime, increased use of stronger marijuana, and government waste.

And yet, Alcohol Prohibition was a success compared to our war on marijuana. Alcohol consumption decreased during the 1920s, but marijuana use has increased drastically since its prohibition. Today, 22,000,000 Americans use cannabis each month, and even more partake on a less frequent basis.

Marijuana prohibition began in the 1930s – over the objections of the American Medical Association – based on scare tactics and fabricated evidence that suggested that the drug was highly addictive, made users violent, and was fatal in overdose. We now know that none of those assertions are true. Cannabis is less addictive than alcohol and tobacco.^[2] It doesn't make users violent,^[3] and there are no documented cases of fatal cannabis overdose.^[4] In short, from the medical standpoint, marijuana should never have been illegal for consenting adults.

While Doctors for Cannabis Regulation firmly supports the legalization and regulation of marijuana for *adult* use, it emphatically opposes *underage* recreational use of marijuana. Cannabis prohibition for adults does not prevent underage use. For decades, preventive education reduced the rates of alcohol and tobacco use by minors,^[6] while underage marijuana use rose steadily despite its prohibition for adults. The government's own statistics show that 80-90% of eighteen-year-olds have consistently reported easy access to the drug since the 1970s.^[7] In states that have legalized marijuana, underage use in certain subsets of the population has actually gone down and that is a direct consequence of regulation and education.

Opponents of legalization like to say: "This isn't your parents' marijuana." And they're right. Cannabis cultivation has led to the development of more potent strains, to the extent that illegal marijuana today is typically about three to five times stronger than it was 30 years ago.^[8] In states where marijuana is legal, the government requires potency labeling. Adult users can make informed decisions about their intake based on potency, much as people do with alcohol – say, drinking a small amount of vodka compared with two beers. But in New Jersey, where it's illegal and uncontrolled, marijuana products aren't labeled and users consume an unknown product of unknown potency. In order to ensure the safety of the millions of people that consume marijuana in our state, we must legalize and regulate this market so that products are properly labeled with potency, ingredients and serving sizes.

Opponents of legalization say – again without evidence – that marijuana legalization "sends the wrong message" to kids. In other words, they argue that if a drug or activity is legal for adults, then kids will think it's safe for them.

If there is an association, it is the opposite of what opponents claim. When cannabis is against the law for everyone, the government is saying that marijuana is dangerous for everyone, and kids *know* that's not true. If adults can't be trusted to tell the truth about responsible adult use of marijuana, why should kids listen to us when we say it's harmful for them? By making a legal distinction between marijuana use by adults and minors, we demonstrate a respect for scientific evidence – and the sanctity of the law – that we would want our children to emulate.

Now, I would like to address what may be the biggest misconception about marijuana – namely, that it is a “gateway” to the use of harder drugs. We hear this repeated over and over again, and always without supporting evidence.

A large study by the Institute of Medicine, the health branch of the National Academy of Sciences, concluded that marijuana “does not appear to be a gateway drug to the extent that it is the cause or even that it is the most significant predictor of serious drug abuse.”¹¹¹¹

While it’s true that users of hard drugs often tried marijuana first, they’re even more likely to have tried alcohol and tobacco. And the vast majority of those who try marijuana, alcohol and tobacco don’t go on to use harder drugs. Simply put, the fact that some people who use hard drugs also used marijuana *in no way* implies that marijuana *causes* people to use hard drugs. The marijuana “gateway” hypothesis is an archaic, misleading and oversimplified explanation of substance misuse, and it trivializes the serious discussion of how to address one of the greatest public health crises in history: our nation’s deadly opioid epidemic.

Times are changing. In 2018, even physicians who oppose legalization generally believe that marijuana should be decriminalized, reducing penalties for users while keeping the drug illegal. Although decriminalization is certainly a step in the right direction, DFCR physicians believe it to be an inadequate substitute for legalization and regulation for a number of reasons.

First, decriminalization does not empower the government to regulate product labeling and purity, which leaves marijuana vulnerable to contamination and adulteration. This also renders consumers unable to judge the potency of marijuana, which is like drinking alcohol without knowing its strength. Moreover, where marijuana is merely decriminalized, the point-of-sale remains in the hands of drug dealers who will sell marijuana – as well as more dangerous drugs – to children.

Contrary to popular belief, decriminalization doesn’t actually end the arrests of marijuana users. Despite New York State decriminalizing marijuana in the 1970s, New York City makes tens of thousands of marijuana possession arrests every year, with continuing racial disparities in enforcement. Finally, under a decriminalized system the government continues to prosecute and constrict the supply chain. This drives up the price of marijuana, making the untaxed illegal market more lucrative, competitive, and violent.

When we describe the days of Al Capone, we call it “Alcohol *Prohibition*”, but it was actually more properly called “Alcohol *Decriminalization*”. It was perfectly legal to obtain and consume alcohol for medical purposes or religious rituals, or if you made it at home for your personal use. So, when opponents tout decriminalization as an answer to prohibition, ask them what they think will happen if we remove penalties for consumers while prosecuting growers and sellers, and how this could be expected to work when Alcohol Prohibition didn’t.

Ladies and gentlemen, esteemed members of the panel, I thank you for your time and attention. I would be happy to answer any of your questions.

Respectfully submitted,

Lieutenant Colonel Kamal Singh Kalsi, D.O., FACEP, U.S.A.R.
maplelotus@gmail.com
925-570-1472

1. Doctors for Cannabis Regulation. "Platform of Regulations." Updated January 2018. <https://dfcr.org/platform-of-regulations/> ↑
2. Joy, Janet E., et al. *Marijuana and Medicine: Assessing the Science Base*. Washington, DC: National Academy Press, 1999. http://medicalmarijuana.procon.org/sourcefiles/IOM_Report.pdf ↑
3. "Learn About Marijuana: Marijuana and Aggression," Alcohol and Drug Abuse Institute, University of Washington, 3/2015. <http://learnaboutmarijuana.org/factsheets/aggression.htm> ↑
4. Collen, Mark. "Prescribing cannabis for harm reduction." *Harm Reduct J.* 2012; 9:1. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3295721/> ↑
5. "The Influence of Marijuana Use on Neurocognitive Functioning in Adolescents," Schweinsburg, et al. *Curr Drug Abuse Rev.* 2008 Jan; 1(1): 99–111. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2825218/> ↑
6. U.S. Department of Health and Human Services. *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014. http://www.cdc.gov/tobacco/data_statistics/sgr/50th-anniversary/index.htm ↑
7. Johnston, Lloyd. *Monitoring the Future: National Survey Results on Drug Use, 1975-2008: Volume II: College Students and Adults Ages 19-50*. Bethesda, MD: National Institute on Drug Abuse, 2009. http://monitoringthefuture.org/pubs/monographs/vol2_2008.pdf ↑
8. Mehmedic, Z. et al. "Potency trends of Δ^9 -THC and other cannabinoids in confiscated cannabis preparations from 1993 to 2008." *J. Forensic Sci* 2010 Sep; 55(5):1209-1217. <http://www.ncbi.nlm.nih.gov/pubmed/20487147>. References earlier work. ↑
9. U.S. Department of Health and Human Services. *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014. http://www.cdc.gov/tobacco/data_statistics/sgr/50th-anniversary/index.htm ↑
10. Substance Abuse and Mental Health Services Administration, State Estimates of Adolescent Marijuana Use and Perceptions of Risk of Harm from Marijuana Use: 2013 and 2014 (2015) available at https://www.samhsa.gov/data/sites/default/files/report_2404/ShortReport-2404.pdf. ↑
11. Joy, Janet E., et al. *Marijuana and Medicine: Assessing the Science Base*. Washington, DC: National Academy Press, 1999, pp. 100-101. <http://www.nap.edu/read/6376/chapter/5#100> ↑



Good Morning,

My name is Anthony Menafro & I am the research specialist at Hudson County Coalition, under the parent agency Partners in Prevention (NCADD). I am here on behalf of both Partners in Prevention & the Hudson County Coalition.

The topic of recreational marijuana legalization is a complex issue. It has social justice and personal freedom implications, but is also a public health issue, and should be viewed as such. After thoughtful consideration, Partners in Prevention adopted the American Society of Addiction Medicine's (ASAM) recommendations on recreational marijuana legalization. ASAM, founded in 1954, is a professional medical society representing over 5000 physicians, clinicians and associated professionals in the field of addiction medicine. In their Public Policy Statement, ASAM found that:

- Empirical evidence associates THC with cannabis dependence. This is especially true of adolescents that begin before the age of 25, with 17% being addicted to cannabis.
- Long-term effects of marijuana can include, but are not limited to, adverse psychiatric effects and disorders, altered brain development, cognitive impairment, and respiratory symptoms.
- Short-term exposure to marijuana smoking is associated with bronchodilation.
- An increasingly popular route of administration for THC is through edible products (45% of recreational sales in Colorado), including baked goods, candies, and beverages, which appeal to teens and children.

Furthermore, it is important to note the relevant statistics specific to NJ and Hudson County. In Hudson County, marijuana treatment admissions (N=1201) are second on the list of primary drugs, only after heroin (N=1404). Hudson County has one of the highest marijuana treatment admissions at 31.5%, compared to New Jersey's 15% marijuana admissions. Even though recreational marijuana use is still illegal, the rate of 30-day use in Hudson County is 5.4% for middle schoolers. Upon legalization, these numbers are expected to rise due to the increase of availability and access.

While our agency and coalition feel that personal freedom and social justice issues do need to be addressed, we are also very concerned about unintended consequences of legalization, such as increased traffic fatalities, increased underage consumption, and foster care issues due to increased access for adults.

PAV

Because of these factors and others, ASAM & PIP make the following policy recommendations:

- We support the decriminalization of marijuana (reduce penalties for marijuana possession), but do not recommend the legalization of recreational marijuana.
- If New Jersey chooses to legalize recreational use, a variety of public health and safety measures should be implemented to minimize potential harms to vulnerable populations.

These include but are not limited to:

- Requiring that products made available for retail sale be tested for potency and clearly labeled with THC content
- Prohibiting the legal sale of marijuana products to anyone younger than age 25
- Prohibiting marketing and advertising to youth, akin to the current restrictions on tobacco product advertising
- Ensuring marijuana products are sold in child-proof packaging
- Earmarking taxes placed on marijuana and marijuana product sales for prevention, treatment, and child protection services.
- Supporting the use of marijuana for medical purposes only when governed by appropriate safety & monitoring regulations.
- We do not support the legalization of synthetic cannabinoid receptor agonists

Some additional recommendations include:

Clinical:

- Addiction medicine physicians and other clinicians should educate their patients about the known medical risks of marijuana use
- There should be a significant expansion of opportunities for youth with cannabis use disorder to receive medically necessary treatment

Research:

- We support research on marijuana, the various cannabinoids present in marijuana, and synthetic cannabinoids agonists and antagonists, both basic science and applied clinical studies, as well as the development of pharmaceutical-grade cannabinoids

ASAM makes the recommendation to not legalize recreational marijuana understanding that we are still learning about unintended consequences of legalized use and ways to prevent those consequences. Partners in Prevention Supports these recommendations made by ASAM, a respected, knowledgeable expert in this arena.

Thank you.



ACLU

**AMERICAN CIVIL LIBERTIES UNION
of NEW JERSEY**

P.O. Box 32159
Newark, NJ 07102

Tel: 973-642-2086
Fax: 973-642-6523

info@aclu-nj.org
www.aclu-nj.org

TESTIMONY IN SUPPORT OF THE LEGALIZATION, TAXATION, AND REGULATION OF MARIJUANA FOR ADULTS

**DIANNA HOUENOU, POLICY COUNSEL
AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY**

NEW JERSEY LEGISLATIVE BLACK CAUCUS

February 21, 2018

Thank you Chairman Rice, Vice-Chair Green, and other members of the Legislative Black Caucus for holding this important hearing and for the opportunity to submit testimony today. My name is Dianna Houenou and I am the Policy Counsel of the American Civil Liberties Union of New Jersey. Founded in 1960, the ACLU-NJ is the state's leading organization dedicated to defending and advancing civil rights and liberties. We are a non-profit, non-partisan organization with more than 45,000 members and donors across New Jersey. The ACLU of New Jersey is a proud member of the steering committee of New Jersey United for Marijuana Reform, a broad-based coalition driven by leaders in the law enforcement, medical, and civil rights communities to work together to support the legalization, taxation, and regulation of marijuana for adults.

The ACLU has opposed marijuana prohibition since 1968. It has helped lead the movement for legalization of marijuana for adults in other states and is working for reform around the country. Reform of our marijuana laws is a civil rights priority and a key component of reforming our broken criminal justice system.

It's Time to Legalize, Tax, and Regulate Marijuana for Adults.

It's time to move our state forward: New Jersey's marijuana laws have long been an abject failure and it's time to legalize, tax, and regulate marijuana for adults. We have used our police officers to make hundreds of thousands of arrests in the past decade, yet have little to show for it. In its wake we find a trail of often devastating collateral consequences in peoples' lives after an arrest.

Not all communities are impacted equally by the enforcement of marijuana laws. Black New Jerseyans are arrested for marijuana possession at a rate three times higher than white New Jerseyans,¹ despite government research showing marijuana use is similar among whites and

¹ American Civil Liberties Union of New Jersey, *Unequal & Unfair: New Jersey's War on Marijuana Users*, 24 (2017), available at https://www.aclu-nj.org/files/6614/9744/1887/2017_06_14_mj_rpt.pdf.

9m.

Blacks.² In 2010, our state wasted more than \$127 million in police, courts, and corrections costs enforcing our marijuana possession laws.³ In 2013, we wasted more than \$143 million,⁴ even though nearly 60 percent of New Jerseyans believe it should be legal.⁵ These are resources that would be better spent focusing on serious crime and public safety issues and investing in community services and programs.

We have squandered more than \$1 billion in the past decade on arresting New Jerseyans for an activity that several recent United States presidents have engaged in.⁶ The status quo has failed and is causing continued damage to New Jersey communities—it's time to begin fixing our criminal justice system by legalizing, taxing, and regulating marijuana for adults.

A Growing Consensus Supports Legalization, Taxation, and Regulation of Marijuana

Legalization of marijuana is wise public policy and a growing consensus of the public and policymakers demonstrates this support. Three years ago, a Rutgers-Eagleton Poll found that a clear majority—58 percent—of New Jerseyans support legalization, taxation, and regulation of marijuana for adults; up nine points from the year before.⁷ The trends are showing increasing support, with national Gallup polling from last fall showing 64 percent support for the policy change—the highest number on record in the history of the poll.⁸

Today, nine states—Washington, Colorado, Oregon, Alaska, California, Massachusetts, Maine, Nevada, and Vermont—and Washington, D.C. have legalized marijuana for adults. This support is not limited to one side of the political spectrum. Conservative and progressive leaders and prominent business figures have endorsed legalization. New Jersey should do the same. Nationally, 72% of Democrats, 51% of Republicans, and 67% of Independents support legalization.⁹

² According to the 2013 National Survey on Drug Use and Health (NSDUH), Blacks and whites use marijuana at similar rates. See http://www.icpsr.umich.edu/quicktables/quicksetoptions.do?reportKey=35509-0001_all%3A7 (In “Measures of Marijuana Use” drop-down menu, select “Ever Used Marijuana.” In “Respondent Characteristics” drop-down menu, select “Race and Ethnicity,” then click “Create the Table”). In 2013, 42.1 percent of Blacks reported having ever used marijuana, while 48.9 percent of whites reported having ever used marijuana. Similarly, 5.3 percent of Blacks reported having used marijuana in the past year, while 5.2 percent of whites reported using marijuana in the past year.

³ American Civil Liberties Union, *The War on Marijuana in Black and White*, 165 (2013), available at https://www.aclu.org/sites/default/files/field_document/1114413-mj-report-rfs-re11.pdf.

⁴ See *Unequal & Unfair*, *supra* note 1 at 6.

⁵ Brent Johnson, *What N.J. thinks of hiking minimum wage, legalizing pot*, NJ Advance Media (Sept. 15, 2017), http://www.nj.com/politics/index.ssf/2017/09/what_nj_thinks_of_hiking_minimum_wage_legalizing_p.html (finding 59 percent of voters support legalization).

⁶ See Ryan Teague Beckwith, *The Next President May Not Have Tried Pot*, TIME MAGAZINE (Feb. 3, 2015), <http://time.com/3633921/president-marijuana-hillary-rubio-rand/>.

⁷ See Rutgers Eagleton Institute of Politics, Press Release, *Marijuana Legalization for Adults With Taxation and Regulation Supported by Most New Jerseyans: Rutgers-Eagleton Poll* (June 18, 2015), available at <http://eagletonpoll.rutgers.edu/rep-marijuana-apr2015/> (finding 59 percent of voters support legalization).

⁸ Justin McCarthy, *Record High Support for Legalization Marijuana Use in U.S.*, GALLUP (Oct. 25, 2017), <http://news.gallup.com/poll/221018/record-high-support-legalizing-marijuana.aspx>.

⁹ *Id.*

New Jersey's marijuana arrests present a racial justice crisis

New Jersey's enforcement of marijuana possession laws has long been a civil rights crisis and is growing worse by the year. Last year, the ACLU of New Jersey issued a report that takes a close look at the arrests New Jersey police made for marijuana possession between 2000 and 2013. The report shows the state is making more arrests than ever before, the racial disparity of those arrests has gotten worse over time, and nearly 90 percent of marijuana arrests are of every-day people for possession of small amounts.

In 2015, New Jersey law enforcement agencies made 24,985 marijuana possession arrests,¹⁰ the most ever on record. This is nearly double the number of arrests made in 1993.¹¹ To put that in perspective, somebody is arrested for marijuana possession in New Jersey approximately every 21 minutes. Marijuana possession arrests make up nearly half of *all* drug arrests in New Jersey each year and is currently the most frequent offense police arrest people for in the state.¹²

But those arrests are not made proportionally across racial groups. National data shows that whites and Blacks use marijuana at similar rates;¹³ however, New Jersey arrests are disproportionately made against Black people. Even though Blacks represented only about 14 percent of the overall population in 2013, they made up 36 percent of the state's possession arrests.¹⁴ That year, the statewide Black arrest rate was three times higher than the white arrest rate.¹⁵

Blacks were disproportionately arrested for marijuana possession in every New Jersey county, but in four counties—Hunterdon, Ocean, Monmouth, and Salem—Blacks were arrested at four or more times the rate of whites.¹⁶ In four legislative districts—Districts 10, 33, 36, and 21—the rate of Black arrests was eight or more times the rate of white arrests.¹⁷

The legislative districts represented by all members of the Legislative Black Caucus made a total of 7,317 marijuana possession arrests in 2013 alone, or 30% of total possession arrests made in New Jersey.¹⁸ Districts 28 and 37 each made more than 1,000 arrests that year.¹⁹ All but four

¹⁰ New Jersey State Police, *2015 Uniform Crime Report* 71 (2015), http://www.njsp.org/ucr/2015/pdf/2015_sect_3.pdf.

¹¹ New Jersey State Police, *1993 Uniform Crime Report* 69 (1994), http://www.njsp.org/info/ucr1993/pdf/1993_sect_3.pdf.

¹² See 2015 Uniform Crime Report, *supra* note 9.

¹³ See 2013 NSDUH, *supra* note 2.

¹⁴ See *Unequal & Unfair*, *supra* note 1 at 24.

¹⁵ *Id.*

¹⁶ *Id.* at 31.

¹⁷ *Id.* at 37.

¹⁸ See *id.* As of this writing, the Legislative Black Caucus is comprised of: Senators Rice (District 28), Turner (District 15), Gill (District 34), Cunningham (District 31), and Singleton (District 7); and Assemblymembers Green (District 22), Sumter (District 35), Barclay (District 5), Conaway (District 7), Jasey (District 27), Tucker (District 28), Speight (District 29), McKnight (District 31), Timberlake (District 34), Holley (District 20), Wimberly (District 35), Johnson (District 37), and Taliaferro (District 3).

¹⁹ *Id.*

Caucus members represent districts in which Blacks are disproportionately arrested for marijuana possession.²⁰

A single marijuana possession arrest can have devastating consequences for someone and their family. Under our current laws, potential penalties for one offense include up to six months in jail;²¹ \$1,255 in fines and fees; a driver's license suspension of up to two years;²² deportation;²³ eviction from public housing for an entire family;²⁴ a three-year ban from public housing;²⁵ loss of student financial aid;²⁶ a five-year ban from adoption;²⁷ and a criminal record that makes getting a job much more difficult.

These extensive penalties can make it extraordinarily difficult for individuals to move past a marijuana arrest and carry on with their lives. Due to our appalling racial disparities in enforcement, these collateral consequences have a disproportionate impact on communities of color. For instance, a number of studies conducted over the years show that among those with criminal records, Black people fare worse in the job market than whites, despite having the same or similar skills and qualifications.²⁸

With so many New Jerseyans arrested each year for marijuana possession, these laws have taken their toll on our communities. New Jersey must stop using the criminal justice system to prop up racial injustice. It's time to legalize, tax, and regulate marijuana, and to do so in a way that supports those communities hit hardest by the unjust war on marijuana users.

Savings and Revenue Should be Reinvested in New Jersey Communities

New Jersey stands to bring in more than \$300 million per year in tax revenue from legalizing, taxing, and regulating marijuana.²⁹ The state will face an important question about how to use that revenue and enforcement cost savings.

The ACLU of New Jersey, and our partners in New Jersey United for Marijuana Reform, believe that, at a minimum, revenue should be dedicated to at least two important purposes. The first is

²⁰ See id.

²¹ N.J.S.A. 2C:43-8.

²² N.J.S.A. 2C:35-16.

²³ U.S.C. § 1227(a)(2)(B)(i) (note that while there is an exception for 30 grams or less of marijuana possessed for personal use, this limit is lower than the 50-gram threshold under New Jersey law and the federal exception only applies to a first offense).

²⁴ *Dep't of Hous. v. Rucker*, 535 U.S. 125, 130 (2002).

²⁵ 42 U.S.C. § 13661(a).

²⁶ 20 U.S.C. § 1091(r).

²⁷ N.J.A.C. § 3A:51-5.4(a)(8)(iii).

²⁸ See, e.g., The Council of State Governments, *Researchers Examine Effects of a Criminal Record on Prospects for Employment* (Aug. 20, 2014), <https://csgjusticecenter.org/reentry/posts/researchers-examine-effects-of-a-criminal-record-on-prospects-for-employment/>; Devah Pager, *The Mark of a Criminal Record*, AMERICAN JOURNAL OF SOCIOLOGY, 108, no. 5 (March 2003): 937-975, available at http://scholar.harvard.edu/files/pager/files/pager_ajs.pdf.

²⁹ See American Civil Liberties Union of New Jersey, *NJ Policy Perspective & NJ United For Marijuana Reform Analysis Projects \$300 Million In Annual Sales Tax Revenue To Come With Legalization For Adults* (May 24, 2016), <https://www.aclu-nj.org/news/2016/05/24/marijuana-legalization-would-bring-100s-millions-nj-tax-reve>.

on drug abuse prevention and treatment. We should use revenue from legalization to invest in evidence-based prevention programs that work, focused on our youth. We can and should boost our youth drug prevention efforts to make sure young people understand the risks associated with using drugs. Further, as New Jersey continues to suffer from a significant lack of treatment beds³⁰ to tackle the troubling increase in opioid addiction in our state, revenue from legalization of marijuana could be put toward ensuring the state is able to better help those suffering from addiction with more and better treatment beds and programs.

The second is a strategy of justice reinvestment. As not all communities have faced enforcement of marijuana possession laws at the same rates, we believe it is important to reinvest savings and revenue into our communities, including communities of color, that have suffered disproportionately from the war on marijuana users in New Jersey. Investing in treatment, re-entry, job training, affordable housing, and related programs in communities that have borne the brunt of enforcement practices will help ensure that justice, equity, and economic empowerment guide reform of our marijuana laws.

Policy Considerations for Legalizing, Taxing, and Regulating Marijuana for Adults

The ACLU of New Jersey looks forward to working with all lawmakers interested in advancing these critical reforms. Legalizing, taxing, and regulating marijuana is a large undertaking and will necessarily implicate hundreds of policy choices involving criminal justice, taxation, public health, business, agriculture, employment, and more.

Under legalization, strict rules would be developed concerning labeling, packaging, potency, portion-size, inspection, and product testing and quality control, which will help shape a regime that prevents children from accessing marijuana and safeguard everyone's health and safety. Other critical policy reforms that must come with legalization include:

Automatic Expungement of Marijuana Possession Records: If the state legalizes marijuana possession for adults, we should not leave behind the many thousands of New Jerseyans who will continue to have a marijuana possession arrest, charge, or conviction on their record. As has been well documented, a criminal record can have devastating consequences for individuals and hiring an attorney to file an expungement petition is out of reach for many. Automatic expungement for conduct the state decides should be legal is important to ending the overreach of the criminal justice system in this area and demonstrates lawmakers' commitment to justice.

Home cultivation for personal use: Once legal, New Jerseyans should not have to rely on companies or the marijuana industry to possess or use marijuana. The right of New Jerseyans to grow a limited amount of marijuana for personal use, with appropriate regulation, should be protected under the law. Allowing limited home cultivation will allow those with limited mobility to access marijuana and prevent "Big Marijuana" monopolies over the industry supply.

³⁰ Stephen Stirling, *Dying for help: Treatment options don't meet demand of growing N.J. heroin and opiate epidemic*, NJ.COM (July 27, 2014), http://www.nj.com/news/index.ssf/2014/07/dying_for_help_available_treatment_doesnt_meet_need_of_growing_nj_heroin_and_opiate_epidemic.html.

Equitable access to participation in the legal market: New Jersey's regulated marijuana system must be designed to facilitate participation in the marketplace for members of New Jersey communities who may lack access to extensive capital or preexisting industry connections. For legalization to provide the full economic boon it has the potential to provide, we must make sure that all New Jersey communities, including those that may have had involvement in the underground marijuana industry, are not only permitted, but encouraged to participate in the legal economy. For the legal market to thrive and eliminate the illegal market, we must provide incentives for those who are currently working in the industry in New Jersey to join the legal marijuana industry. Simply establishing "goals" for licensure of minority-owned and female-owned businesses is not enough. More is needed to ensure that historically disenfranchised communities are not excluded from participating in legal ownership after having borne the brunt of marijuana enforcement. This includes establishing clear conflict-of-interest rules, ensuring that the application process for licenses is not overly burdensome or expensive, and rejecting barriers to entry that would privilege wealthy, out-of-state corporations. Licensure qualifications should not bar people based on criminal history that does not bear on the functions or duties of working in the marijuana industry; unless someone has a history of fraud, corruption, or other inappropriate business practices, we should not be preventing her from applying to be part of this new economy. California's law includes this limitation, and New Jersey should follow suit.

Conclusion

The legalization, taxation, and regulation of marijuana for adults is a critical policy reform for New Jersey and the state should move towards passage with thorough consideration for its racial justice implications on our communities. The ACLU-NJ, together with our partners in New Jersey United for Marijuana Reform, look forward to working with you and stakeholders across the state to safely and responsibly legalize marijuana.

MARIJUANA REFORM IN NEW JERSEY

GET THE FACTS



Marijuana prohibition in New Jersey has failed. It's time for common sense.

Legalizing, taxing, and regulating marijuana for adults will put an end to the tremendous harms caused by our current laws, create jobs, increase public safety, and generate hundreds of millions of dollars in revenue to fund projects that help all New Jerseyans.



New Jersey police make nearly
25,000 ARRESTS PER YEAR
for marijuana possession.



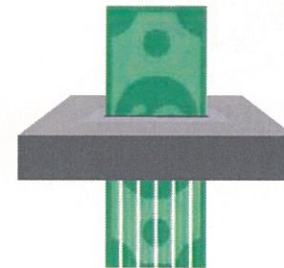
From 2000-2010, police arrested New Jerseyans nearly 210,000 times for an offense that
SEVERAL U.S. PRESIDENTS
have admitted to doing.



Someone is arrested for marijuana possession in New Jersey
EVERY 22 MINUTES.



BLACK NEW JERSEYANS ARE ARRESTED AT 3X THE RATE OF WHITES
for marijuana possession, despite similar usage rates.



OVER THE PAST DECADE, NEW JERSEY WASTED MORE THAN \$1 BILLION
on police, courts, and jails enforcing marijuana possession laws.



New Jersey's
MEDICAL MARIJUANA SYSTEM FAILS
to provide patients with the medicine they need.



Taxing and regulating marijuana could
GENERATE MORE THAN \$300 MILLION
per year in revenue for New Jersey.



www.NJMarijuanaReform.org

[fb.me/NJU4MR](https://www.facebook.com/NJU4MR)

[@NJU4MR](https://twitter.com/NJU4MR)

MARIJUANA ARRESTS HAVE SERIOUS CONSEQUENCES



An arrest for a single marijuana cigarette in New Jersey can create devastating consequences for someone's life. With over 200,000 marijuana possession arrests in the past decade, our marijuana laws have done serious damage to our family members, neighbors, and friends.

Consequences for one adult marijuana possession arrest could include:



UP TO 6 MONTHS IN JAIL



LOSS OF EMPLOYMENT



DRIVER'S LICENSE SUSPENSION FOR UP TO 2 YEARS



CRIMINAL RECORD FOR AT LEAST 3 YEARS



ARREST WARRANT FOR FAILURE TO PAY FINES



UP TO \$1,255 IN FEES AND FINES



LOSS OF IMMIGRATION STATUS



LOSS OF STUDENT FINANCIAL AID



3-YEAR BAN FROM PUBLIC HOUSING



5-YEAR BAN FROM ADOPTION



www.NJMarijuanaReform.org

fb.me/NJU4MR

[@NJU4MR](https://twitter.com/NJU4MR)



MARIJUANA LEGALIZATION IS A MATTER OF RACIAL AND SOCIAL JUSTICE

New Jersey's war on marijuana has failed, and according to a 2017 Quinnipiac poll nearly 60% of New Jerseyans support legalization. Elected leaders must establish a legal marijuana system that is strong, fair, equitable, and representative of our shared values of justice. New Jersey has the potential to enact legislation with a real racial justice impact that can be used as a model in other states and establish New Jersey as a national leader on marijuana reform.

Legalizing recreational marijuana is just a start. Legislation must account for the harms people have endured as a result of our unjust prohibition laws.

We need new marijuana laws that:

- Provide for automatic expungements of prior records. Otherwise, an expungement costs hundreds of dollars and requires a long, complicated process.
- Provide meaningful ways for New Jersey's entrepreneurs and small business owners to participate in the legal market.
- Provide concrete measures that ensure reinvestment in communities, including low-income communities and communities of color that have disproportionately been the targets of the drug war.
- Allow for home grow, which provides people with limited mobility or low incomes greater opportunity to access marijuana and allows medical patients to grow the strains they need.
- Use the projected \$300 million in annual tax revenues for education, drug treatment and prevention, and justice reinvestment, such as re-entry and job training programs.

Current marijuana laws have devastating impacts for individuals and communities of color.

Marijuana is less addictive and less harmful than alcohol, tobacco, and many other substances.¹ For the majority of people who consume marijuana, the greatest harms associated with consumption are not health-related, but the effects of criminal and civil sanctions. A marijuana arrest limits opportunities for employment, housing, and education.

New Jersey police are making more arrests for marijuana possession than ever before: In 2015, police made nearly 25,000 arrests.

¹ Matt Ferner, Marijuana may be the least dangerous recreational drug, study shows, Huffpost (Feb 24, 2015), http://www.huffingtonpost.com/2015/02/24/marijuana-safer-than-alcohol-tobacco_n_6738572.html.

Being arrested for a single marijuana cigarette can mean:

- Up to six months in jail
- Loss of job and driver's license suspension
- Up to \$1,225 in fees and fines
- If you're an immigrant, you can face deportation
- If you're a student, you can lose your student loans
- If you live in public housing, you can face eviction

Black communities bear the brunt of enforcement. Black New Jerseyans are arrested for marijuana possession at a rate 3 times higher than white New Jerseyans,² despite similar usage rates. In 20 cities, Black people are arrested at a rate 8 or more times higher than whites.

Taxing and regulating marijuana will:

1. Help fix our broken criminal justice system by ending unjust marijuana arrests.
2. Enhance public safety by freeing up law enforcement.
3. Create jobs in construction, agriculture, retail, product innovation, and other industries that can boost our state and local economies.
4. Generate millions of dollars in state and local tax revenue to reinvest in our communities.
5. Make New Jersey a leader in social and racial justice, if laws account for the harms inflicted on low-income communities and communities of color.

ABOUT NJUMR

New Jersey United for Marijuana Reform (NJUMR) is a partnership of organizations committed to changing New Jersey's marijuana laws. Although we come from different perspectives – civil rights, law enforcement, criminal justice, and medicine – we have all arrived at the same conclusion: New Jersey must legalize, tax, and regulate marijuana to end the harms caused by our current laws. Legalizing marijuana would help create jobs, increase public safety, and generate revenue to fund projects that help all New Jerseyans.

To learn more about NJUMR, visit us on the web or find us on social media:

Website: www.NJMarijuanaReform.org

 fb.me/NJU4MR

 [@NJU4MR](https://twitter.com/NJU4MR)

² Even though New Jersey's Black population has consistently been approximately 14% of the State's population overall, Black people make up about 35% of arrests for marijuana possession.



Why Legalization?

DECRIMINALIZATION

vs

LEGALIZATION

Removes criminal penalties for use and possession.

Removes **criminal and civil penalties** (i.e. citations) for use and possession.

Police give tickets for possession and make arrests if tickets aren't paid.

New Jersey regulates and taxes marijuana like alcohol.

NJUMR supports the legalization of marijuana in New Jersey. It is a better way to protect New Jerseyans from the harms of marijuana than relying on our criminal justice system. **New Jersey makes nearly 25,000 marijuana possession arrests every year.**

ARRESTS IN STATES WITH DECRIMINALIZATION

103,698

MARIJUANA ARRESTS IN 2010

NEW YORK

Decriminalized in 1977

19,178

MARIJUANA ARRESTS IN 2010

OHIO

Decriminalized in 1975

7,437

MARIJUANA ARRESTS IN 2010

NEBRASKA

Decriminalized in 1979

Decriminalization fails to put an end to thousands of unjust marijuana arrests and does nothing to curb the illegal market.



What Regulation Looks Like

QUESTION	AFTER: REGULATED	NOW: UNREGULATED
Who can legally buy marijuana?	Only adults 21 and over.	No one.
Where can you buy it?	New Jersey licensed stores.	Street corners, parks and playgrounds.
Who gets the money?	Communities, schools, and drug addiction, treatment and prevention programs.	Drug dealers and the illegal market.
Who regulates marijuana?	The State of New Jersey with sensible rules and regulations.	No one.
How do we know what's in marijuana?	A tested, labeled product in a safe container with clear indication of strength, and appropriate warnings on it.	We don't.
How many people are arrested for marijuana possession?	Adults over the age of 21 can legally possess one ounce of marijuana.	New Jersey makes nearly 25,000 marijuana arrests per year for simple marijuana possession
What happens if you drive under the influence of marijuana?	You are arrested.	You are arrested.
How will this impact drug prevention programs for youth?	Funded through marijuana tax revenue.	Woefully underfunded.



Mythbusting the Gateway Theory *Correlation Versus Causation*

We can trace the “gateway theory” to the 1930s, and even then public health experts knew it was based on anti-drug hysteria rather than science. It’s a destructive myth, and it hasn’t aged well.¹

The gateway theory is the notion that marijuana use leads to use more dangerous drugs. But for nearly 100 years, the public health community has confidently refuted these hyperbolic claims. Even in the darkest days of the drug war there have always been physicians who spoke truth to propaganda: evidence does not support a causal link between marijuana and the later use of hard drugs.

People who use hard drugs often have tried marijuana earlier in their lives because of its wide availability and relative safety. They are even more likely to have tried alcohol and tobacco. For obvious reasons, people generally try less dangerous drugs before trying more dangerous drugs, which may be harder to obtain. But a simple observation reflects the reality: The vast majority of people who use marijuana, tobacco, and alcohol never go on to use more dangerous drugs.

Since the “reefer madness” of the 1930s, prohibitionists have made unfounded inferences from the unsurprising fact that people who use opioids have often consumed marijuana first. They’re also more likely to have tried alcohol, tobacco, caffeine, and cupcakes first. The fallacious gateway theory nonetheless influenced the U.S. Federal Government when it banned cannabis in 1937.

Over eighty years later, the gateway theory remains unsupported by scientific research. The Institute of Medicine, the health division of the National Academy of Sciences, has concluded that marijuana “does not appear to be a gateway drug to the extent that it is the cause or even that it is the most significant predictor of serious drug abuse.”²

Simply put, marijuana does not cause people to use hard drugs. It’s like your high school science teacher often said: “Correlation does not equal causation.”

Studies show that other factors – including genetic predisposition, environment, and poverty – are highly correlated with and can predict substance use disorders. The misuse of so-called soft drugs are, at most, indicators of some people’s predisposition to misusing other drugs.

The gateway theory is a misleading, oversimplified explanation of the complicated set of factors that actually lead to substance misuse. Its reductive interpretation does a disservice to an important public health discussion, and this malignant misunderstanding has resulted in the many harms of marijuana prohibition.

Especially given the severity of the United States opioid crisis, we need research and preventive education that focuses on the demonstrable links to the use of hard drugs, including genetics, poverty, and social environment.³

According to the Oxford Dictionary, a theory is a "supposition or a system of ideas intended to explain something, especially one based on general principles independent of the thing to be explained."⁴ By this definition, we should more properly speak of the "gateway myth."

One way cannabis *can* causally lead to the use of hard drugs is through its prohibition.

Wherever the cannabis trade is illegal, it is sold to anyone – including minors – by dealers who sometimes give away free samples of hard drugs as a promotional way to introduce people to other illegal substances. In a legalized environment, marijuana sales are separated from those of hard drugs, and minors are excluded from purchases.

The bottom line: Legalization makes communities safer and actually separates the sales of marijuana from other, far more harmful drugs. This is just one of many reasons why New Jersey needs legalization now.

¹ Doctors for Cannabis Regulation, "The Prescience of William C. Woodward." <https://dfcr.org/the-prescience-of-william-c-woodward/>

² Joy, Janet E., et al. Marijuana and Medicine: Assessing the Science Base. Washington, DC: National Academy Press, 1999, pp. 100-101. <https://www.nap.edu/catalog/6376/marijuana-and-medicine-assessing-the-science-base>

³ Quenqua, Douglas. "A Comeback for the Gateway Drug Theory?" *The New York Times*, December 7, 2017. <https://www.nytimes.com/2017/12/07/well/live/a-comeback-for-the-gateway-drug-theory.html? r=0>

³ Valdez, Avelardo et. al. "Aggressive Crime, Alcohol and Drug Use, and Concentrated Poverty in 24 U.S. Urban Areas." *Am J Drug Alcohol Abuse*. 2007; 33(4): 595–603. <http://www.tandfonline.com/doi/full/10.1080/00952990701407637>

⁴ "Theory." *Oxford Living Dictionaries*. <https://en.oxforddictionaries.com/definition/theory>