



February 26, 2021

Co-Chair, Sen. Gary Winfield
Co-Chair, Rep. Steve Stafstrom
Judiciary Committee
LOB BUILDING, ROOM 2C

**TESTIMONY IN SUPPORT OF S.B. 888 – AN ACT CONCERNING ADULT USE OF
CANNABIS**

Dear Co-Chairs and Members of the Judiciary Committee:

My name is DeVaughn Ward, and I am the senior legislative counsel at the Marijuana Policy Project (MPP), the largest marijuana policy reform organization in the United States. MPP has been working to improve marijuana policy for more than 25 years. MPP has also convened the Connecticut Coalition to Regulate Marijuana, a diverse group of organizations that acknowledge that cannabis prohibition has failed and is working to support a better solution — regulating and taxing cannabis similarly to alcohol.¹

I am here today to testify regarding S.B. 888 – An Act Equitably and Responsibly Regulating Adult-Use Cannabis. S.B. 888 seeks to end cannabis prohibition and replace the unregulated illicit market with a taxed and regulated system of licensed cultivators, retailers, manufacturers, and micro-businesses.

As you may recall, in the 2019 session a package of bills that sought to legalize, tax, and regulate cannabis for adults 21 and older was presented to the legislature, and the bills advanced out of the General Law, Judiciary, and Finance Committees but ultimately failed to gain passage. In 2020, Gov. Lamont offered the first gubernatorial proposal for ending cannabis prohibition in Connecticut. Despite best efforts, the bill stalled when COVID shut down the capitol and the legislative session was suspended. S.B. 888 is the continuation of those efforts. S.B. 888 includes provisions to ensure the erasure of past marijuana possession convictions, allows possession of up to one and a half ounces, envisions a process to distribute revenue to equity efforts, and creates a regulatory structure to begin the regulated sale of cannabis in Connecticut.

¹ A note on terminology: marijuana is the term more often used to refer to the cannabis plant. The terms are used interchangeably throughout this document.

While MPP believes S.B. 888 represents a solid foundation for Connecticut to start the conversation in building a thoughtful and sensible policy for adult use of cannabis, the bill has several areas that should be amended and strengthened to ensure its aim of equity in the cannabis industry is achieved.

I. It's time for Connecticut to replace prohibition with sensible regulation.

Prohibition has clearly failed.

Despite the vast sums spent on hundreds of thousands of marijuana arrests made in the U.S. every year, prohibition hasn't stopped adults or youth from accessing cannabis. Marijuana remains readily available in Connecticut and across the United States. Prior to any state permitting sales to adults, 40% of American high schoolers reported that they had a peer who sold marijuana at school, compared with less than 1% who knew a peer selling alcohol in school.² This is probably because unlike licensed liquor stores, drug dealers do not check ID. Regulating cannabis would move sales into safe, licensed retail stores where workers check ID, instead of schools. Criminalizing the production and distribution of cannabis only serves to enrich and empower the criminals that control this lucrative market. It does nothing to keep drugs away from young people.

Connecticut residents support legalization.

Popular support for legalization has increased significantly over time. No less than 61 percent of voters favor legalizing marijuana in Connecticut. That number grows to 65 percent when including an allowance for personal cultivation.³ Research found that 71% of Connecticut residents support legalizing cannabis for adults and taxing it in the context of a variety of options to address the state's budget crisis.⁴

This is not about being “pro-marijuana.” Marijuana is a drug, as is alcohol, and it can be abused, like alcohol. This is about being anti-prohibition, because the prohibition of marijuana creates far more harm to individuals and society than marijuana consumption itself ever could. Connecticut has a rich history of resisting alcohol prohibition — it was one of two states that never approved the 18th Amendment, which ushered in prohibition. It should use that same wisdom today.

A better approach — regulation — has already been forged by other states.

As it has become increasingly obvious that prohibition does not work, states have begun to choose a more sensible approach – taxing and regulating cannabis similarly to alcohol. This trend began with Colorado and Washington in 2012, then Alaska and Oregon in 2014, then California, Maine, Massachusetts, and Nevada in 2016, and Michigan in 2018. In 2019, Illinois became the 10th state to legalize cannabis for adult use, and the first in the country to adopt a regulatory system for cannabis cultivation, testing, and sales through a state legislature. In 2020, voters in Arizona, South Dakota, New Jersey, and Arizona all approved legalization measures at the ballot box. Just this week, New Jersey's governor and legislative leaders finalized legislation implementing cannabis legalization in

² Columbia University, National Center on Addiction and Substance Abuse Survey, 2012.

³ GQR, Connecticut Voters Support Legalizing Recreational Marijuana, January 22, 2020.

⁴ See <https://www.wtnh.com/news/politics/poll-finds-majority-of-connecticut-residents-support-marijuana-legalization/1097524713>.

the Garden State. Connecticut can learn from the 15 states that have paved the way. Those states also illustrate the benefits of replacing prohibition with taxation and regulation.

For example, according to Gov. Jay Inslee and Attorney General Bob Ferguson of Washington State:

Our state's efforts to regulate the sale of marijuana are succeeding. A few years ago, the illegal trafficking of marijuana lined the pockets of criminals everywhere. Now, in our state, illegal trafficking activity is being displaced by a closely regulated marijuana industry that pays hundreds of millions of dollars in taxes. This frees up significant law enforcement resources to protect our communities in other, more pressing ways.⁵

Former Gov. John Hickenlooper of Colorado — who strongly opposed the 2012 initiative that legalized marijuana in his state — has said that, while implementation was challenging, it was “also one of the things I’m most proud of.”⁶ He also noted that, from a “35,000-foot level” things in Colorado have gone well, citing things like the fact that health officials have not seen increased teen use or a dramatic increase in overall consumption and that polls show residents are increasingly in favor of continued legalization.⁷

As a result of other states leading the way by regulating marijuana, we also know more about the economic impacts. Massachusetts, for example, collected more than \$1 billion in tax revenue since legalizing in 2018.⁸ Nevada, a state with a population of roughly three million, generated nearly \$100 million in tax revenue in 2019.⁹ Adjusted to Connecticut’s population, that would be \$210 million in revenue and more than 20,000 licensed cannabis employees. Unsurprisingly, the vast majority of marijuana sales have shifted to the legal market. By 2017, Colorado regulators reported, “Colorado’s preexisting illicit marijuana market for residents and visitors has been fully absorbed into the regulated market.”¹⁰ (Because most states still have an illegal, unregulated market, illicit activity even in legal states continues to meet that of out-of-state demand.)

Connecticut should move forward this year, before it becomes an island of prohibition.

There is no good reason to continue with the destructive and wasteful policy of prohibition that tears families apart, deprives the state of revenue, and wastes law enforcement time. Instead,

⁵ February 15, 2017 Letter from Gov. Inslee and AG Ferguson to U.S. Attorney General Jeff Sessions, *available at* <https://www.documentcloud.org/documents/3474339-Gov-AG-Ltr-to-Sessions-Re-Marijuana-002.html>.

⁶ Alicia Wallace, “Colorado gov’s weed advice for California: Focus on edibles, home grows, pesticides,” *The Cannabist*, *The Denver Post*, February 14, 2017. *Available at* <http://www.thecannabist.co/2017/02/14/colorado-marijuana-advice-california-governor-john-hickenlooper/73656/>.

⁷ *Id.*

⁸ Massachusetts Cannabis Control Commission, <https://mass-cannabis-control.com/massachusetts-marijuana-retailers-surpass-1-billion-in-gross-sales/>,

⁹ https://tax.nv.gov/Publications/Marijuana_Statistics_and_Reports/

¹⁰ “Market Size And Demand For Marijuana in Colorado 2017 Market Update,” Prepared for the Colorado Department of Revenue.

Connecticut should act now to replace prohibition with adult-use legalization and sensible regulation.

Massachusetts, Maine, and Vermont have already legalized marijuana for adults. Sales began in Massachusetts in November 2018, and in Maine in 2020. In Vermont, adult-use sales are expected to begin in 2022. The reality is most Connecticut residents are a relatively short drive from legal, regulated cannabis stores. New Jersey’s legislature recently finalized their legislation for adult-use cannabis, and New York is likely to follow suit later this year, in a trend that appears will only continue to grow.

Connecticut polls consistently show voters would legalize and regulate cannabis if they had the power to do so, but only the legislature has that authority in Connecticut. Connecticut should treat adults like grown-ups, and let them make their own decisions — with appropriate health warnings. And the state should begin to reap the economic benefits of moving from prohibition to regulation and taxation.

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

I would like to address two of the most prevalent myths and misconceptions associated with reducing or eliminating penalties for adult marijuana possession. First, some people worry that marijuana is a so-called “gateway” to the use of harder drugs. This concern has been debunked by every major study on the subject. For example, in a seminal 1999 report by the prestigious Institute of Medicine (IOM), part of the National Academy of Sciences, researchers found “marijuana is not the most common, and is rarely the first, ‘gateway’ to illicit drug use. There is no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs.”¹¹ The report went on to note, “There is no evidence that marijuana serves as a stepping stone on the basis of its particular physiological effect. ... Instead, the legal status of marijuana makes it a gateway drug.”¹² These findings have been confirmed by major peer-reviewed studies in the *American Journal of Psychiatry*, the *British Journal of Addiction*, and the *Journal of Health and Social Behavior*.¹³ As William Martin, Director of the Baker Institute for Public Policy at Rice University in Texas, recently explained:¹⁴

[T]he overwhelming majority of people who use marijuana do not go on to use harder drugs. Of those who do, extensive research has concluded that the causal

¹¹ “Marijuana and Medicine: Assessing the Science Base,” Institute of Medicine (1999), p. 6. Available at http://www.nap.edu/openbook.php?record_id=6376.

¹² Id at 99.

¹³ “Predictors of Marijuana Use in Adolescents Before and After Licit Drug Use: Examination of the Gateway Hypothesis,” Tarter, et al. (2006), *American Journal of Psychiatry*. Available at <http://ajp.psychiatryonline.org/article.aspx?articleid=97496>. “Using Marijuana May Not Raise the Risk of Using Harder Drugs,” RAND (2002), published in the *British Journal of Addiction*. Available at http://www.rand.org/pubs/research_briefs/RB6010/index1.html. “A Life Course Perspective on the Gateway Hypothesis,” Gundy and Rebellon (2010), *Journal of Health and Social Behavior*. Available at <http://hsb.sagepub.com/content/51/3/244.abstract>.

¹⁴ William Martin, “Does marijuana use lead to harder drugs?” *Houston Chronicle*, April 30, 2015, available at <http://www.chron.com/opinion/outlook/article/Martin-Does-marijuana-use-lead-to-harder-drugs-6234329.php>.

factors reside not in the drug itself, but in the complex of genetic, social and psychological factors that lead them to seek relief in mind-altering substances in the first place. Prohibition cannot address those problems, but it does serve as a gateway into the criminal justice system, which will make them immeasurably worse.

This is particularly important as Connecticut is facing an opioid epidemic. While Connecticut has a restrictive medical marijuana law, surveys indicate that far fewer people register in state medical cannabis programs than use cannabis medically.¹⁵ Many are reluctant to be on a state registry, fear losing their gun rights, or have trouble finding — or affording — a doctor. Available evidence suggests that cannabis is an “exit drug” that can actually help people struggling to stop using opioids and alcohol. An international team recently conducted one of the most comprehensive surveys of its kind, which examined 60 studies on cannabis and mental health. According to Zach Walsh, psychology professor at the University of British Columbia and lead author of the study, “Research suggests that people may be using cannabis as an exit drug to reduce use of substances that are potentially more harmful, such as opioid pain medication.”¹⁶

Second, opponents often claim that allowing adults to legally use cannabis will result in an increase in teenagers’ cannabis use. That is not borne out in the data. In fact, the most in-depth surveys suggest modest decreases in rates of youth cannabis use in Colorado and Washington, both of which approved initiatives to regulate cannabis like alcohol in 2012. Public health programs can further reduce teen use regardless of the legality of the substance for adults. This is illustrated by the impressive reduction in teens’ tobacco use, which has plummeted 79% from its peak in 1997.¹⁷ This is due to strict regulations on cigarette sales and advertising, plus a robust public education campaign. The same can be done for cannabis, and it will likely be more effective when that education is based on real research and not “reefer madness.”¹⁸

II. Recommended changes to S.B. 888

- **Barbara brohl**

MPP strongly recommends the following revisions to S.B. 888 to put equity, inclusion, and community reinvestment at the forefront of cannabis legalization in Connecticut and to undo some of the harms done by cannabis prohibition.

¹⁵ A 2013 Pew survey indicates 6% of Americans use marijuana medically (<http://www.people-press.org/2013/04/04/majority-now-supports-legalizing-marijuana/>). However, in most medical marijuana states, less than 2% of states’ populations are registered in states’ medical cannabis programs, with several states having less than 0.5% of the population enrolled (<https://www.mpp.org/issues/medical-marijuana/state-by-state-medical-marijuana-laws/medical-marijuana-patient-numbers/>).

¹⁶ University of British Columbia, “Marijuana could help treat drug addiction, mental health, study suggests,” *ScienceDaily*, November 16, 2016.

¹⁷ Truth initiative, “youth smoking rate falls to 6 percent,” available at <https://truthinitiative.org/news/youth-smoking-rate-falls-6-percent>.

¹⁸ In fact, some studies showed that the propaganda-based program D.A.R.E. actually had a “boomerang effect,” increasing drug use among young people who took it. Rosie Cima, “DARE: The Anti-Drug Program That Never Actually Worked,” *Priceconomics*. Available at <https://priceconomics.com/dare-the-anti-drug-program-that-never-actually/>.

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- **Ensure Substantial Funding for Equity and Reinvestment** — Sec. 98 directs cannabis revenue allocation, with 50% going each to the General Fund and PILOT. It does not specify *any* percent will be directed to communities hardest hit by prohibition. It is imperative that S.B. 888 explicitly directs the bulk of the revenue toward equity and community reinvestment. In addition, a portion of the proceeds should be used for prevention and treatment. For example, the bill could provide that each fiscal year, at least 75% of tax proceeds be directed to community reinvestment and equity, which can be fleshed out based on the Equity Commission’s recommendations, and 5% must be directed to youth prevention, public health education, and substance abuse treatment.
 - **Ensure Equity in Licensing** — Sec. 26 allows the department to begin accepting lottery applications for adult-use cannabis business licenses immediately — on July 1, 2021. It does not require any slots to be reserved for equity applicants. It is essential that a significant portion of the lottery slots be reserved for equity applicants, which should be defined based on the Equity Commission’s input. For example, it could provide that no less than 40% of each license type must be reserved for equity applicants. We’d also strongly recommend extending the posting of the number of each license to be issued through the lottery process to a minimum of 30 days.
 - **Expand Expungement** — Sec. 4 provides automatic expungement and erasure for cannabis possession. We urge it to be revised to allow no-cost expungement for *all* cannabis-related offenses. Individuals should not be haunted by a scarlet letter for the same actions that will be making millions for the state and licensed businesses.
 - **Direct Early-Start Fees to Equity** — Sec. 19 allows existing medical producers to sell to adult-use cannabis establishments, except delivery licenses, after paying hefty fees and getting DCP approval for medical supply. However, it does not specify what those fees will be used for. It is imperative that early-start fees be directed towards equity in the industry, such as for start-up funding and technical assistance.
 - **Increasing Equity in Early-Start Businesses** — A requirement should be added to Sec. 19 that medical producers converting to adult use must submit a plan, approved by the Equity Commission or successor entity, to reinvest or provide employment and training opportunities in disproportionately impacted census tract areas or in communities disproportionately impacted by high rates of drug-related arrests, marijuana sale arrests, or marijuana possession arrests.
 - **Remove Micro-Cultivator Caps** — We appreciate Sec. 1’s inclusion of the micro-cultivator license, which creates a vertically integrated license. We recommend adding language that the micro-cultivator license shall not be capped or subject to lottery. Instead, licenses could be issued on a rolling basis and temporarily halted if needed due to oversupply. Removing caps will provide more opportunity for equity and small-business applicants.

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- **Community Service Alternatives to Fines** — We urge the inclusion of a community service equivalent that can be performed in lieu of civil fines for cannabis offenses. The amount of community service should be tied to the minimum wage of \$15 per hour. For example, in Sec. 3, the penalty for minors in possession of cannabis would be up to a \$150 fine or 10 hours of community service.
 - **No Jail for Home Cultivation** — We urge the bill to allow discreet, secure home cultivation. Absent that, we suggest changing the penalties in Sec. 11 — at least for a first offense — to civil, instead of criminal, penalties. This would provide greater parity with alcohol and reduce cannabis-related incarceration and stigma.
 - **Expanded Criminal Justice Provisions** — We are glad Sec. 12 eliminates cannabis use or possession as grounds for revocation of parole or probation. We recommend adding that use and possession of cannabis, or a prior cannabis-related conviction or employment at a cannabis establishment, may not be considered in setting bail or other conditions of release, and shall not result in revocation of release. There could be an exception for revocation if there is an individualized finding that the person’s use of cannabis would pose a danger.
 - **Remove Odor as Probable Cause** — Sec. 13 eliminates probable cause for stop or search for odor of cannabis or burnt marijuana, but includes an exception for the presence of cannabis in close proximity with currency over \$100. This exception should be eliminated or increased to \$1,000.
 - **Allow Processor Sales Direct to Delivery Services** — Sec. 19 does not allow existing medical producers to sell to adult-use delivery licensees. This restriction will hamper these businesses’ opportunities.
 - **Don’t Jail Minors** — Sec. 81 sets penalties for minors misrepresenting their age to procure cannabis at a fine of up to \$250 for the first offense and a Class D misdemeanor (which carries up to 30 days in jail and/or a fine of up to \$250) for subsequent offenses. We recommend setting the penalty to the same as alcohol — a fine of up to \$250 — but adding the community service equivalent at \$15/hour.
 - As drafted, it is possible that *only* medical cannabis producers will be licensed to cultivate adult-use cannabis. This would significantly limit opportunity. **We recommend that additional growers be licensed from the outset. We also recommend adding language to ensure any cap on the number of cultivators includes tiers of growers based on their sizes, with a separate cap for each size.**
 - **We further recommend that licensed on-site consumption be allowed when other businesses are licensed — at least in localities that opt in. Some individuals cannot use cannabis at home, including if they live in federally subsidized housing or most assisted living facilities. And some people are visitors and don’t live in Connecticut at all.**

Barring immediate licensing of on-site consumption, we encourage recommendations for allowing on-site consumption by January 1, 2022.

- Sec. 98 establishes the taxation and revenue structure for cannabis. The taxes^[SEP] include excise taxes at the wholesale level and sales taxes at retail. The standard sales tax rate will apply statewide and towns will collect a 3% sales tax for their own revenues. The excise taxes are \$1.25 per dry gram of flower, \$0.50 per dry gram of trim, and \$0.28 per gram for wet cannabis. The excise tax will be collected upon the first use, transfer, or sale of cannabis. This section does not seem to include a method of imposing a tax on cannabis that is sold to a manufacturer and turned into infused products. Also, it's worth noting that other states' cultivators strongly oppose the weight-based model for taxes. Massachusetts is currently taking an *ad valorem* approach. **The taxation rate and method should be reassessed every two or three years by DCP, and the tax should be crafted in a way to include both flower and infused products. It may be worth considering an *ad valorem* approach for regional uniformity.**
- **Finally, we recommend adding a labor peace provision.** A labor peace provision that applies to any larger cannabis business (such as with 20 or more employees) would ensure workers in this emerging industry are treated fairly and with dignity. HB 6377 contains solid language that addresses labor peace.

In conclusion, thank you to Chair Winfield, Chair Stafstrom, and the members of the committee for your time and attention to this important issue. I respectfully urge the committee to strengthen and then pass S.B. 888.

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

Sincerely,

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