



MEMORANDUM

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TO: House Judiciary Committee

FROM: Andy Hoover, Legislative Director, ACLU of Pennsylvania

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DATE: June 13, 2016

RE: OPPOSITION TO HOUSE BILL 1422 (JOZWIAK)

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On Tuesday, the House Judiciary Committee is scheduled to consider House Bill 1422. Introduced by Representative Jozwiak, this legislation simultaneously lowers the grading for possessing a small amount of marijuana (up to 30 grams) from a misdemeanor to a summary offense and massively increases the fines for this offense. Under current law, this offense carries a maximum fine of \$500 with no minimum. HB 1422 amends the statute to set \$500 as the minimum fine with no maximum and with increases for repeat offenses. While the American Civil Liberties Union of Pennsylvania is grateful for the sponsor's desire to lower the grading of this minor crime, the massive increase in fines could lead to a perverse incentive for law enforcement to target Pennsylvanians for this low-level, victimless offense, and that could inadvertently lead to targeting of people based on race, neighborhood, and economic status. The ACLU of Pennsylvania opposes HB 1422. On behalf of the 23,000 members of the ACLU of Pennsylvania, I respectfully urge you to vote "no" on this bill.

The concern that an increase in the fine structure could lead to targeting Pennsylvanians by race is not mere hypothetical but is, in fact, supported by data. In 2013, the ACLU published the report *The War on Marijuana in Black and White*. The report analyzed nationwide arrest data from 2001 to 2010.¹ That analysis showed that black Pennsylvanians are nearly six times more likely than white Pennsylvanians to be arrested for marijuana possession, even though research consistently shows parity in drug usage across all races. The racial disparity in arrests in Pennsylvania was the sixth-highest disparity in the country. Black Pennsylvanians were arrested at a rate of 606 per 100,000 while white Pennsylvanians were arrested at a rate of 117 per 100,000.

HB 1422 severely heightens the fine structure for possession of a small amount of marijuana at a time when the trend in marijuana policy is going in the opposite direction. For example, in 2014, the city of Philadelphia created a local civil offense for possession of marijuana. That offense carries a fine of \$25. A person can be fined \$100 for the offense of smoking marijuana in public. For either offense, the person does not have a criminal record or the risk of jail time.

¹ Available at <https://www.aclu.org/feature/war-marijuana-black-and-white?redirect=marijuana>.

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According to one estimate based on costs to process marijuana arrests, Philadelphia saved \$4.4 million in the first year of implementation of the new civil offense.²

Meanwhile, after the implementation of a structure to tax and regulate marijuana in Colorado in 2014, the state reported that the sale of cannabis generated \$135 million in tax revenue in 2015.³

In December, Delaware became the 19th state to implement decriminalization or legalization of marijuana.⁴ Delaware changed the grading for possession of a small amount of marijuana to a civil offense with a \$100 fine and no possibility of jail time. Then in February, Maryland followed with a similar change in law.

HB 1422 goes in the opposite direction of the national trend.

In recent years, there has been a great deal of discussion in the legislature and among stakeholders that prosecuting people for drug offenses, the so-called War on Drugs, has been a complete failure. In fact, the General Assembly passed Act 16 this year to authorize the use of marijuana for medical purposes. And there is no doubt that there are currently Pennsylvanians using marijuana for medical purposes, risking arrest to do so. A massive increase in the fines for possession of less than 30 grams of marijuana puts those patients at greater risk of at least higher fiscal punishment.

The ACLU of Pennsylvania is grateful that the committee is continuing to think through the best ways to reform marijuana policy. At first blush, HB 1422 may give the appearance of positive reform because it lowers the grading to a summary offense. But like all bills, the details matter. And the massive change in the fine structure to inflict greater financial punishment on people who possess a small amount of marijuana is more of the same harsh punishment, the failed policy of the last 40 years. Please vote “no” on HB 1422.

² Goldstein, C. (2016) *Philadelphia police issued more than 1,300 marijuana citations in 2015*. Available at http://www.philly.com/philly/columnists/philly420/Philly420_Philadelphia_police_issued_more_than_1300_marijuana_citations_in_2015.html.

³ Baca, R. (2016) *Colorado marijuana sales skyrocket to more than \$996 million in 2015*. The Denver Post. February 9, 2016. Available at <http://www.thecannabist.co/2016/02/09/colorado-marijuana-sales-2015-reach-996-million/47886/>.

⁴ Available at [http://legis.delaware.gov/LIS/lis148.nsf/vwLegislation/HB+39/\\$file/legis.html?open](http://legis.delaware.gov/LIS/lis148.nsf/vwLegislation/HB+39/$file/legis.html?open).