



February 2, 2024

SB 396

Testimony from Olivia G. Naugle, senior policy analyst, MPP, in opposition to SB 396

Dear Chair Smith and members of the Senate Judicial Proceedings Committee:

My name is Olivia Naugle, and I'm the senior policy analyst for the Marijuana Policy Project, the largest marijuana policy reform organization in the United States. MPP has been working to improve marijuana policies for over 25 years. MPP has played a leading role in most of the major cannabis policy reforms since 2000, including more than a dozen medical cannabis laws.

The Marijuana Policy Project strongly supports legalizing and regulating cannabis for adults 21 and older and doing so in a way that repairs the damage inflicted by criminalization.

MPP strongly opposes SB 396, which would repeal the current law that prohibits police searches based solely on the odor of cannabis.

In the 2022 election, Maryland voters voted overwhelmingly in favor (67.2 percent) of Question 4 — a constitutional amendment to legalize cannabis for adults in Maryland beginning July 1, 2023. In fact, the passage of Question 4 was the highest margin of any ballot measure to legalize cannabis.

Last year, the General Assembly passed HB 1071 to protect Marylanders from searches and unnecessary police interactions based on the odor of cannabis — a now legal substance — alone. This was a critical reform to Maryland's cannabis policy to dismantle the unequal enforcement of cannabis prohibition.

The odor or supposed odor of cannabis is often used as a pretext to stop and search residents, and we know that traffic searches are disproportionately performed on cars with Black or Latino drivers.¹ Traffic stop interactions have led to violence and death for Black Americans.²

In addition to Maryland, *most* recent legislatively-enacted legalization states have also explicitly provided that the odor of cannabis isn't grounds for a search. This includes Connecticut, New Jersey, New York, and Virginia.³

¹ Phillip Smith, "States that legalized marijuana see dramatic drop in police traffic searches," *Alternet*, April 1, 2019. (Before legalization 1.3% of black drivers were subject to traffic searches in Colorado. After legalization, the rate was under 0.2%. Among Hispanic drivers, the rate dropped from 1% to 0.1%. Among whites, the rate of searches dropped from 0.4% to 0.1%. Thus, black drivers went from being 6.5 times as likely to be searched as whites to twice as likely, and the total likelihood of black drivers being subject to a traffic search dropped eightfold.)

² Tanvi Misra, "Uncovering Disparities In Policing By Analyzing Traffic Stop Data," *Pacific Standard*, June 7, 2018.

³ Citations are available at: <https://www.mpp.org/assets/pdf/issues/criminal-justice/2021.11.19%20State%20Analysis%20Chart.pdf>

Finally, it is important to note that under current law in Maryland, driving under the influence of cannabis remains illegal. If an officer has a legal basis to believe the driver is impaired, they can do a DRE exam with a field sobriety test. And, if they have a legal basis, blood can be drawn by a medical professional.

In the last couple of years, Maryland has made tremendous progress in enacting cannabis policies that are equitable and focused on repairing the decades of harm cannabis prohibition has caused, particularly in Black communities. SB 396 is unnecessary and would roll back critical protections and progress. I respectfully urge an unfavorable report on SB 396.

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

Sincerely,

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