

Ending Marijuana Prohibition in New York: **Summary of the Marijuana Regulation and Taxation Act**

**We are
the Drug
Policy
Alliance.**

S. 3040 (Krueger) / A. 3506 (Peoples-Stokes)

June 2017

Background

Marijuana prohibition has not been effective in its stated goal of stopping or curbing marijuana use across New York State. Instead, prohibition has fueled the growth of an illicit industry, has been disproportionately enforced in communities of color, and has been fiscally irresponsible. The Marijuana Regulation & Taxation Act (MRTA) will address the negative impacts of the failed policy of marijuana prohibition by creating a responsible and well-regulated industry that will better restrict minors' access to marijuana while generating millions in tax revenue to bolster the state economy and support communities that have been most harmed by marijuana prohibition.

The Marijuana Regulation & Taxation Act (MRTA) legalizes the production, distribution, and use of marijuana. This bill removes marijuana and marijuana products from New York's Controlled Substances Act and allows for the regulation of marijuana under the supervision of the Liquor Authority of New York State. This legislation will regulate the distribution and use of marijuana and marijuana products similar to the way alcohol and tobacco are regulated.

The MRTA Ends Criminalization and Redresses Past Harms

Marijuana possession is one of the top misdemeanor arrests in New York State—and has been for the last twenty years. Nearly one million New Yorkers have had contact with the criminal justice system as a result, and enforcement of prohibition has drastically reduced community trust in law enforcement.

The MRTA tackles the issue of the hyper-criminalization of communities, primarily communities of color and low-income areas, by first removing marijuana and marijuana products from the Controlled Substances Act and making it allowable by law for adults to possess, purchase, ingest or smoke, and even grow marijuana.

It additionally works to address some of the unjust consequences of marijuana prohibition by creating a process for both the reclassification of past convictions related to marijuana and for the resentencing of currently incarcerated individuals who are serving a sentence due to a marijuana-related offense. This provision of the legislation will remove significant barriers that New Yorkers face in the wake of a marijuana conviction and allow them to fully participate in society without the devastating toll of collateral consequences.

The MRTA Creates a Comprehensive and Inclusive System for Regulation

New York benefits from the experiences of other states that have already implemented this new approach to marijuana policy. New York policy makers can feel assured knowing that the sky did not fall in states like Washington, Colorado, Oregon, and Alaska that have legalized the adult use of marijuana. The other major benefit is that New York can study the challenges those states faced in navigating regulatory provisions for this new industry.

The MRTA is modeled in large part on the laws that currently regulate alcohol and tobacco. But it also incorporates many of the lessons learned from states like Colorado and Washington, which have now developed an expertise in regulating marijuana. The MRTA amends the Alcoholic Beverage Control Law to include marijuana and marijuana usage. A new office, the Bureau of Marijuana Policy, will be created within the structure of the Liquor Authority to provide oversight, promulgate regulations, and issue licenses (similar to the Liquor Authority's engagement with alcohol regulation). The Department of Agriculture & Markets, the Department of Environmental Conservation, the Department of Health, and others state entities will also play a significant role in ensuring that the goals of regulation are met and that its outcomes will benefit the state.

Under the MRTA, the Liquor Authority will award licenses to produce, process, test, dispense, distribute, and deliver marijuana. These licenses will operate similar to liquor licenses and will be subject to additional regulations devised by the Liquor Authority.

With an eye to lessons learned in other states, the MRTA *does not* contain broad felony disqualifications for licensing or employment. Instead, it restricts people who have been convicted of offenses related to owning and operating a business—like fraud and tax evasion—from being licensed. Distinguishing between potential bad actors and people who have been targets of the drug war is necessary for ensuring an equitable marijuana industry in New York.

Lastly, the MRTA regulations will restrict youth access—one of the unmet goals of prohibition—by not allowing the possession, sale, or use of marijuana by people under the age of 21. However, under the MRTA, youth under the age of 21 may only be charged with infractions for marijuana offenses. They will not be threatened with incarceration; instead, youth will be required to attend drug awareness education, counseling, and community service. The sale of marijuana or marijuana products to a person under the age of 21 will still be a criminal offense and will result in the stripping of the license of the business in violation.

The MRTA Cultivates the Emergence of Small and Local Businesses

Legal marijuana trade is now possible, in various forms, in 29 states and Washington, D.C., resulting in the growth of a multibillion dollar industry. New York anticipates this success and the MRTA ensures that New Yorkers from diverse backgrounds have the opportunity to grow in this new industry as well.

The MRTA restricts vertical integration to provide the maximum amount of space for new companies to develop and contribute to a New York-focused market. Similar to New York's craft wine and beer industry, which has seen phenomenal growth, the MRTA also encourages small-scale production and sale via micro-license.

The MRTA Addresses Marijuana's Impact on Immigration, Family Law, and Discrimination in Housing and Employment

The collateral consequences of a marijuana arrest under current New York law are significant. But removing prohibition itself does not necessarily alleviate the potential pitfalls of marijuana use by adults.

The MRTA addresses ancillary impacts in the fields of immigration, family law, and discrimination in housing and employment based on a prior marijuana arrest.

As discussed above, under the MRTA some people who have been previously convicted for marijuana can have their records sealed and/or marijuana violations (summons) vacated, which would prohibit the Department of Criminal Justice Services from including that record in any report issued. This means the MRTA will reduce the number of people facing barriers to employment, public housing, custody of their children, and human services as a result of marijuana arrests. It will also prevent families from being separated by deportation or loss of custody due to marijuana arrests.

The MRTA Directs Revenue from Marijuana Sales to Communities Most Harmed by Prohibition

As communities across the state look to rebuild from a drug war that has left a lasting impact on generations of New Yorkers, they are consistently finding that state resources that could benefit them are instead being used to perpetuate wasteful and damaging prohibitionist policies that have not been successful in curbing use, increasing public health, or benefitting communities.

The MRTA directs 50% of tax revenue (once operational costs are covered) to establish the Community Grants Reinvestment Fund, which will serve as a source of funding for community-based projects including adult education services, job training, the expansion of afterschool programs, re-entry services, and other community-centered projects.

Additionally, the MRTA directs 25% of the remaining tax revenue from the regulated marijuana market to assisting the state in supporting the state department of education to keep public schools open and provide a quality education to New York's children.

The MRTA Centers Public Health by Funding Real Public Health Initiatives: Drug Treatment Programs, Science-Based Public Education, and Research on Public Health Impacts of Marijuana Legalization

The MRTA directs the final 25% of the tax revenue beyond program costs to funding drug treatment programs and public education campaigns geared toward reducing opioid overdoses and saving lives. Additionally, the MRTA directs significant resources to research institutions across the state to analyze the health impacts of legalizing marijuana.

The New York State Legislature has dedicated significant resources to combatting the opioid crisis that is currently ravaging our state. However, increased access to marijuana has been associated with reduced overdose rates in other states. Additionally, legalizing marijuana for recreational use by adults may also provide a lasting source of funding for much-needed treatment programs.

Get Involved

New York's broken marijuana policies undermine fiscal responsibility and racial equity, while stifling economic growth. For more information or to get involved, contact Chris Alexander at calexander@drugpolicy.org or 212-613-8076.