

The Marijuana Regulation and Taxation Act: The SMART Way to Protect Young New Yorkers

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Over the past two decades, great progress has been made in reducing teen use of alcohol and tobacco. Common sense regulation, coupled with education, taxation, and age and advertising restrictions, has led to the lowest rates of teen use in decades.¹ The Marijuana Regulation & Taxation Act (MRTA) applies these same principles and strategies to reduce the accessibility of marijuana for New York's youth.

The MRTA dramatically reduces the threat of incarceration and other criminal justice involvement for young people who commit marijuana-related offenses. This legislation directs substantial new revenue from marijuana retail sales taxes to youth drug education and treatment programs, investing in communities harmed by harsh drug laws, and protecting and supporting public education in New York.

Overview of the MRTA

The MRTA will allow the responsible use of marijuana by adults 21 and over within a tightly regulated system. It will allow adults to legally possess, transport, purchase, consume, and share no more than two pounds of marijuana and four and a half ounces of concentrated marijuana. Adults 21 and over may also legally grow no more than six plants at their homes. The newly-formed Bureau of Marijuana Policy, within the State Liquor Authority, will coordinate regulation and enforcement with several state agencies to protect consumers, the environment, and public health and will not change the regulation of medical marijuana by the State Department of Health.

The MRTA Reduces Youth Access to Marijuana

The MRTA seeks to reduce the accessibility of marijuana, and thus youth use of marijuana, by banning the advertising of marijuana to minors and near schools and youth centers.

Retail businesses must check IDs for age and any business that is caught selling to minors will face stiff sanctions, including the loss of their business license. Additionally, adults over the age of 21 caught selling to minors will face criminal penalties.

The MRTA also establishes strict standards to help keep marijuana products from ending up in the hands of children.

Specifically, the MRTA:

- Restricts non-medical marijuana use to adults age 21 and over.
- Bars licensees from operating in spaces that also prohibit the sale of alcohol for consumption off the premises based on proximity to schools and places of worship.
- Empowers localities to deny licensees from operating in locations determined by prospective host-communities to be inappropriate.
- Joins all legalized states in restricting public consumption of marijuana, not allowing any marijuana retailer to also sell alcohol, and not allowing minors on its premises. Selling to minors remains illegal and results in penalties, including license revocation.
- Establishes strict requirements for the storage of plants being cultivated for personal use, including the mandated use of locked spaces.

Moreover, the MRTA imposes strict regulations governing labeling, packaging, and testing of non-medical marijuana products:

- Marijuana products cannot be made attractive to children.

- Packaging must feature warning labels and be opaque, re-sealable, and child resistant.
- Separate packaging for each serving is required for all marijuana-infused products.
- Marijuana products must be independently tested to comply with consumer safety standards.
- Marijuana products cannot be distributed without secure packaging that enables seed-to-sale tracking.
- Labels for marijuana products must clearly display product potency.

The MRTA Reduces Criminal Penalties for Youth

The impact of criminal convictions on the educational, employment, and other life opportunities for young people can be severe, even for minor marijuana offenses. New York's *Marihuana Reform Act of 1977* made private marijuana possession a violation rather than a criminal offense, while making possession in "public view" a misdemeanor.² This loophole – coupled with over-policing of communities of color – has resulted in mass arrests for marijuana possession that continue to have an extremely disproportionate impact on young people of color.^{3, 4}

Nearly 23,000 people were arrested statewide in 2016,⁵ and nearly 85 percent of the New Yorkers arrested annually for marijuana are Black or Latino – despite drug use and drug selling occurring at similar rates across racial and ethnic groups.⁶

Young people comprise a huge portion of these arrests: more than 28 percent of those arrested for marijuana possession in 2016 were 20 years old or younger; more than 70 percent were under 30 years old. The only way to begin to unravel this legacy of disparate enforcement is to move marijuana into a fully regulated market at the state level.

Similar to the consequences for underage drinking, youth under the age of 21 may *only* be charged with infractions for marijuana offenses under the MRTA. They will not be threatened with incarceration or be monetarily penalized; instead, youth will be required to attend drug awareness education, counseling, and community service.

Under the MRTA, thousands of New York teens will no longer be saddled by criminal records that hinder their ability to develop self-sufficient lifestyles as adults. The law will help protect young people from the long-term effects of charges that often result from the unfortunate combination of normal youthful indiscretion and ongoing racial discrimination by police.

The MRTA Invests Significant Revenue in Youth Education and Treatment Programs

Nationwide, the current legal marijuana market's estimated value is more than \$6.6 billion, with recreational sales expected to exceed \$10.9 billion by 2025.⁷ Illicit sales are estimated at \$3 billion for New York State,⁸ and an official study by the NYC comptroller in 2013 estimated potential tax *revenue* for a legal marijuana market in NYC alone would be more than \$400 million, acknowledging that the actual revenue could be much higher.⁹

The MRTA directs 25 percent of the available tax revenue to assisting the state in supporting the state department of education as they seek to keep public schools open and provide a quality education to New York's children. An additional 25 percent of the remaining tax revenue will be directed to funding drug treatment programs and public education campaigns geared toward preventing and treating the misuse of alcohol, marijuana, and other drugs by youth, as well as researching the public health impacts of marijuana legalization.

The MRTA Invests Revenue in Communities Harmed by Marijuana Prohibition

The largest portion of the revenue windfall from regulating and taxing marijuana – 50 percent (once operational costs are covered) – would be used to establish the Community Grants Reinvestment Fund, which will work to strengthen communities disproportionately harmed by the war on drugs. The Community Grants Reinvestment Program will serve as a source of funding for community-based projects and will support afterschool programs, job training and placement, economic development, adult education services, re-entry services, and other community-centered projects.

Youth Use Rates of Marijuana Remain Stable Despite Wider Availability of Marijuana

Eight states and Washington, D.C. have legalized the adult use of marijuana and twenty-nine states have legalized the medical use of marijuana. Nationally, the overall rate of marijuana use among youth continues to decline,¹⁰ and statewide surveys of junior high to high school age students living in states with a recreational market have shown no significant increase in marijuana use among young people.^{11, 12, 13, 14}

For example, Colorado legalized adult use of marijuana in a manner similar to the MRTA through Amendment 64 in 2012. The *2015 Healthy Kids Colorado Survey* found that current and lifetime underage marijuana use in Colorado have remained relatively stable. In fact, juvenile marijuana use in the state has dipped below national averages – 20 percent of young people had used marijuana in the past month and 37 percent had used it during their lifetime, compared to the national averages of 23.4 percent and 40.7 percent, respectively.¹⁵

The SMART Choice: End Prohibition and Create a Better Future for Young New Yorkers

Without reform, New York will continue to fall behind public opinion and responsible policymaking regarding marijuana. Further, thousands of young, vulnerable New Yorkers will continue to be swept into the criminal justice system and forced to deal with often long-lasting consequences. It is time for New York to fix its broken marijuana policies and repair the harm caused by the war on drugs.

By passing the MRTA to end prohibition and regulate marijuana in New York, lawmakers can:

- End the unfair, wasteful, harmful practice of arresting people for marijuana possession.
- Protect youth – particularly young people of color, who continue to be disproportionately impacted – by preventing access to marijuana and

eliminating a common reason for introduction to the criminal justice system.

- Encourage safety through quality control, harm reduction options, and public education.
- Create tax revenue that will be directed to school-based prevention efforts, youth-oriented drug treatment programs, and youth-oriented public health education campaigns.
- Repair the harm caused by the war on drugs and mass incarceration by investing revenue from the legal marijuana market into communities for job training, economic empowerment, and youth development programming.

The NY State Legislature should make the SMART choice: End prohibition, create a system to tax and regulate marijuana, and repair and reinvest in communities most harmed by the war on marijuana and communities by voting for the Marijuana Regulation and Taxation Act.

For more information, to get involved, or to share an arrest story, contact Chris Alexander at calexander@drugpolicy.org or 212-613-8076 or Melissa Moore at mmoore@drugpolicy.org or 212-613-8071.

¹ Monitoring the Future. (2016). *Key Findings on Adolescent Drug Use*. Retrieved from: <http://www.monitoringthefuture.org//pubs/monographs/mtf-overview2016.pdf>

² *Marijuana Reform Act of 1977*, Public Law 360, 1977-1978 Legislature, Regular Session (29 June 1977).

³ Harry Levine and Deborah Small, *Marijuana Arrest Crusade: Racial Bias and Police Policy in New York City, 1997 - 2007*, (New York: New York Civil Liberties Union, 2008), pp 38 - 45.

⁴ New York State Division of Criminal Justice Services, *New York State Arrests in 2010*, Computerized Criminal History System, January 2011.

⁵ New York State Division of Criminal Justice Services, *Adult Arrests in 2016*, Computerized Criminal History System, February 2017.

Also see: New York State Division of Criminal Justice Services, *New York State Arrests in 2010*, Computerized Criminal History System, January 2011.

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⁶ New York State Division of Criminal Justice Services (2016, October). *New York State Arrests for Marijuana Charges by year*, Computerized Criminal History System.

⁷ New Frontier Data (2017), "The Cannabis Industry Annual Report: 2017 Legal Marijuana Outlook Executive Summary." Retrieved from <https://newfrontierdata.com/annualreport2017/>

⁸ *The State of Legal Marijuana Markets*, 5th ed. Arcview Market Research.

⁹ John Liu. *Regulating and Taxing Marijuana: The Fiscal Impact on NYC*. NYC Comptroller, 2013. Accessed from: https://comptroller.nyc.gov/wp-content/uploads/documents/NYC_RegulateMarijReport.pdf.

¹⁰ Monitoring the Future. (2016). *Key Findings on Adolescent Drug Use*. Retrieved from: <http://www.monitoringthefuture.org//pubs/monographs/mtf-overview2016.pdf>.

¹¹ Oregon Health Authority. (2016). *2016 Oregon Student Wellness Survey*. Retrieved from: https://oregon.pridesurveys.com/dl.php?pdf=Oregon_SWS_Statewide_Report_2016.pdf&type=region.

¹² Oregon Health Authority. (2015). *2015 Oregon Healthy Teen Survey*. Retrieved from: https://public.health.oregon.gov/BirthDeathCertificates/Surveys/OregonHealthyTeens/Documents/2015/2015_OHT_State_Report.pdf.

¹³ Washington State Department of Health. (2012). *Healthy Youth Survey, 2012 Analytic Report*. Retrieved from: <http://www.doh.wa.gov/Portals/1/Documents/Pubs/160-193-HYS-AnalyticReport2012.pdf>.

¹⁴ Colorado Department of Public Health and Environment. (2015). *Healthy Kids Colorado Survey*. Retrieved from: <https://www.colorado.gov/pacific/cdphe/hkcs>.

¹⁵ Colorado Department of Public Health and Environment. (2015). *Healthy Kids Colorado Survey*. Retrieved from: <https://www.colorado.gov/pacific/cdphe/hkcs>.