

Support HB 639 - End New Hampshire's Unnecessary and Harmful War on Marijuana

HB 639 would allow adults (over age of 21) to possess up to four ounces of marijuana and create state-licensed private retail sales. The bill would also preserve and integrate the medical marijuana program and allow localities to regulate or ban marijuana businesses. It would impose a 15% tax on gross revenue from cultivators and allocates this revenue to New Hampshire's retirement system, then education (which may result in property tax relief). It would also allocate funds to substance use prevention and treatment and to public safety agencies to detect impaired drivers.

Under current law, adults in possession of up to 3/4 ounce of marijuana face fines ranging from \$100 to \$1,200, depending in the number of offenses within a three-year period.ⁱ Adults in possession of marijuana under this limit can still face arrest and a criminal charge (Class B Misdemeanor) for their fourth violation within a three-year period.ⁱⁱ In addition, for adults in possession of more than 3/4 ounce of marijuana, they can be charged with a misdemeanor and face up to one year in jail and a fine of \$2,000 or less.ⁱⁱⁱ

A marijuana possession arrest can ruin lives. Sold to the public in the name of public safety, New Hampshire's marijuana laws needlessly ensnare over a thousand people -- disproportionately Black people -- in its criminal justice system every year. These arrests are not just an unnecessary burden on New Hampshire residents and the judicial system, but also negatively affect access to employment, housing, and child custody, among others, for the person arrested. These collateral harms can last for decades, even after someone has served their time or paid any required fines. It is past time to end New Hampshire's unnecessary and harmful war on marijuana.

New Hampshire's war on marijuana is a monumental waste of tax dollars. For each of the 1,120 marijuana arrests in 2021,^{iv} our tax dollars had to pay for a judge, a clerk, law enforcement officers, prosecutor, and others to process the case. According to an economic analysis published in 2013, the 2,769 marijuana possession arrests in 2010 cost New Hampshire taxpayers \$6,526,364 that year.^v Despite New Hampshire's decriminalization of marijuana possession in 2017,^{vi} law enforcement still arrested 1,120 people in 2021 for marijuana possession,^{vii} meaning New Hampshire taxpayers may still be paying close to \$2.6 million each year to enforce marijuana possession laws. Lawmakers should stop wasting tax dollars on this failed war.

New Hampshire's war on marijuana is enforced with a staggering racial bias.^{viii} In 2020 Black people were 4.8 times more likely to be arrested for marijuana possession when compared with whites,^{ix} despite both groups using marijuana at roughly the same rate.^x And, this disparity is on the rise, up from 2.6 times more likely to be arrested in 2010 – a 46 percent increase.^{xi} The racial bias in enforcement is even more pronounced with the city police departments in Manchester and Concord, where the disparities are 13.9 times and 5.8 times respectively.^{xii} The discriminatory enforcement of New Hampshire's marijuana laws means that Black people are more likely to face the immediate harms of a marijuana arrest and charge, including potential incarceration, as well as the collateral consequences, including the loss of jobs, housing, financial aid eligibility, and child custody.

The vast majority of Granite Staters support marijuana legalization. Seventy-four percent of Granite Staters support marijuana legalization, including majorities of Democrats, Independents, and Republicans.^{xiii} And, support for marijuana legalization has greatly increased since 2013, when it was just 49 percent.^{xiv} It is past time for New Hampshire lawmakers to listen to the people and legalize marijuana possession by adults.

Opponents of marijuana legalization rely on fear-based rhetoric divorced from reality. Marijuana legalization opponents argue that marijuana legalization leads to increased youth use, crime, and traffic fatalities. They also argue that marijuana is a gateway drug that is partially responsible for the opioid epidemic. The data from legalization states do not support these claims. Multiple studies have found no increase in youth use in states that have legalized marijuana.^{xv} Legalization has also not substantially affected crime rates,^{xvi} and, according to a multi-year study of Colorado and Washington, may have improved crime clearance rates.^{xvii} Fortunately, it also appears that marijuana legalization has had “little or no effect” on traffic accidents and fatalities.^{xviii} Finally, evidence suggests that marijuana legalization is connected with a reduction in opioid related deaths.^{xix} New Hampshire lawmakers have the benefit of years of data from legalization states to distinguish myth from reality.

Support HB 639 – The war on marijuana does not make us safe, wastes taxpayer dollars, and ruins lives.

ⁱ NH Rev Stat § 318-B:2-c.

ⁱⁱ NH Rev Stat § 318-B:2-c(V)(a).

ⁱⁱⁱ NH Rev Stat § 318-B:26(II)(c).

^{iv} Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2021, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>.

^v ACLU, *The War on Marijuana in Black and White*, p. 164, available at <https://www.aclu.org/report/report-war-marijuana-black-and-white>.

^{vi} NH Rev Stat § 318-B:2-c (2017).

^{vii} 1,120 marijuana possession arrests in 2021 and 2,769 marijuana possession arrests in 2010. See, Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2021, available <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest> & ACLU, *The War on Marijuana in Black and White*, p. 127, available at <https://www.aclu.org/report/report-war-marijuana-black-and-white>.

^{viii} Note: Racial disparity numbers on this sheet are based on 2020 data provided to the FBI because only a very limited number of New Hampshire law enforcement agencies provided race disparity data in 2021. This is a very serious problem that the NH Legislature must address.

^{ix} New Hampshire arrested 1,494 people for marijuana possession in 2020. 1,332 arrests of white people and 125 arrests of Black people. See, Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2020, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest> & U.S. Census Bureau, QuickFacts, New Hampshire, available at <https://www.census.gov/quickfacts/fact/table/manchestercitynewhampshire.concordcitynewhampshire/PST045221>.

^x Fred Dews, *Charts of the week: Marijuana use by race, Islamist rule in Middle East, climate adaptation savings*, Brookings, Aug. 11, 2017, available at <https://www.brookings.edu/blog/brookings-now/2017/08/11/charts-of-the-week-marijuana-use-by-race/>.

^{xi} ACLU, *The War on Marijuana in Black and White*, p. 127, available at <https://www.aclu.org/report/report-war-marijuana-black-and-white>.

^{xii} Manchester Police Department arrested 26 people for marijuana possession in 2020. 13 arrests of white people and 13 arrests of Black people. See, Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2020, Manchester Police, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>. U.S. Census Bureau, QuickFacts, Manchester city, New Hampshire, available at <https://www.census.gov/quickfacts/fact/table/manchestercitynewhampshire.concordcitynewhampshire/PST045221>; Concord Police Department arrested 33 people for marijuana possession in 2020. 26 arrests of white people and 6 arrests of Black people. Concord’s population is 43,976. White people comprise percent of the population and Black people comprise percent of the population. See, Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2020, Concord Police, available at <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest>. U.S. Census Bureau, QuickFacts, Concord city, New Hampshire, available at <https://www.census.gov/quickfacts/concordcitynewhampshire>.

^{xiii} University of New Hampshire, The Survey Center, *Bipartisan Support for NH Marijuana Legislation; Most Consider Legislature's Redistricting Maps Unfair*, Feb. 25, 2022, available at https://scholars.unh.edu/cgi/viewcontent.cgi?article=1688&context=survey_center_polls.

^{xiv} *Id.*

^{xv} See, e.g. Anderson, Mark D., et al.. *Association of Marijuana Laws With Teen Marijuana Use New Estimates From the Youth Risk Behavior Surveys*, Journal of the American Medical Association, July 2019 (Recreational marijuana laws were associated with an 8% decrease in the odds of marijuana use and a 9% decrease in the odds of frequent marijuana use.); Healthy Kids Colorado Survey (HKCS) data, available at <https://marijuanahealthinfo.colorado.gov/health-data/healthy-kids-colorado-survey-hkcs-data>; Marijuana Policy Project, *Teen Marijuana Use Does Not Increase Following Marijuana Policy Reforms*, available at <https://www.mpp.org/issues/legalization/teen-marijuana-use-does-not-increase/>.

^{xvi} Angela Dills, et. al., *The Effect of State Marijuana Legalizations: 2021 Update*, CATO Institute, Feb. 2, 2021, available at <https://www.cato.org/sites/cato.org/files/2021-01/PA908.pdf>; Greg Rosalsky, *The Data On Legalizing Weed*, Planet Money/NPR, Mar. 16, 2021, available at <https://www.npr.org/sections/money/2021/03/16/976265525/the-data-on-legalizing-weed>.

^{xvii} David A. Makin, et. al., *Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State*, National Institute of Justice, 2019, available at <https://nij.ojp.gov/library/publications/marijuana-legalization-and-crime-clearance-rates-testing-proponent-assertions>.

^{xviii} Greg Rosalsky, *The Data On Legalizing Weed*, Planet Money/NPR, Mar. 16, 2021, available at <https://www.npr.org/sections/money/2021/03/16/976265525/the-data-on-legalizing-weed>; Angela Dills, et. al., *The Effect of State Marijuana Legalizations: 2021 Update*, CATO Institute, Feb. 2, 2021, available at <https://www.cato.org/sites/cato.org/files/2021-01/PA908.pdf>; & Benjamin Hansen, et. al., *Early Evidence on Recreational Marijuana Legalization and Traffic Fatalities*, Mar. 2018, available at https://www.nber.org/papers/w24417?utm_source=npr_newsletter&utm_medium=email&utm_content=20210311&utm_term=5237211&utm_campaign=money&utm_id=7043805&orgid=305&utm_att1=money.

^{xix} Greta Hsu & Balázs Kovács, *Association between county level cannabis dispensary counts and opioid related mortality rates in the United States: panel data study*, BMJ, Jan. 27, 2021, available at <https://www.bmj.com/content/372/bmj.m4957>; Greg Rosalsky, *The Data On Legalizing Weed*, Planet Money/NPR, Mar. 16, 2021, available at <https://www.npr.org/sections/money/2021/03/16/976265525/the-data-on-legalizing-weed>.