Co-Chair, Sen. Gary Winfield
Co-Chair, Rep. Steve Stafstrom
Judiciary Committee
LOB BUILDING, ROOM 2C

March 2, 2020

TESTIMONY IN SUPPORT OF S.B. 16 – AN ACT CONCERNING ADULT USE OF CANNABIS

Dear Co-Chairs and Members of the Judiciary Committee:

My name is DeVauhn Ward, and I am the senior legislative counsel at the Marijuana Policy Project, the largest marijuana policy reform organization in the United States. MPP has been working to improve marijuana policy for more than 20 years. MPP has also convened the Connecticut Coalition to Regulate Marijuana, a diverse group of organizations that acknowledge that cannabis prohibition has failed and are working to support a better solution — regulating and taxing cannabis similarly to alcohol.¹

I am here today in support of SB 16, which is the Governor’s bill to end cannabis prohibition and replace the unregulated illicit market with a taxed and regulated system of licensed cultivators, retailers, manufacturers, micro-businesses, and testing laboratories. As you know, in the 2019 session a package of bills that sought to legalize, tax, and regulate cannabis for adults 21 and older was presented to the legislature, and the bills advanced out of the General Law, Judiciary, and Finance Committees but ultimately failed to gain passage. SB 16 draws on the lessons learned during the 2019 session and represents a sensible approach to ending cannabis prohibition with a strong focus on public health, public safety, and social equity.

The bill also includes provisions to ensure the erasure of past marijuana possession convictions, reinvestment in communities decimated by the war on drugs, and fosters participation in the cannabis industry by individuals from impacted communities. MPP believe SB 16 represents a strong foundation for Connecticut to build a thoughtful and sensible approach to the adult use of cannabis.

I. It’s time for Connecticut to replace prohibition with sensible regulation

¹ A note on terminology: marijuana is the term more often used to refer to the cannabis plant. The terms are used interchangeably throughout this document.
Prohibition Has Clearly Failed
Despite the vast sums spent on hundreds of thousands of marijuana arrests made in the U.S. every year, prohibition hasn’t stopped adults or youth from accessing cannabis. Marijuana remains readily available in Connecticut and across the United States. Prior to any state permitting sales to adults, 40% of American high schoolers reported that they had a peer who sold marijuana at school, compared with less than 1% who knew a peer selling alcohol in school. This is probably because unlike licensed liquor stores, drug dealers do not check ID. Regulating cannabis would move sales into safe, licensed retail stores where workers check ID, instead of schools. Criminalizing the production and distribution of cannabis only serves to enrich and empower the criminals that control this lucrative market. It does nothing to keep drugs away from young people.

Connecticut Residents Support Legalization
Popular support for legalization has increased significantly over time. No less than 61 percent of voters favor legalizing marijuana in Connecticut. That number grows to 65 percent when including an allowance for personal cultivation. Research found that 71% of Connecticuters support legalizing cannabis for adults and taxing in the context of a variety of options to address the state’s budget crisis.

This is not about being “pro-marijuana.” Marijuana is a drug, as is alcohol, and it can be abused, like alcohol. This is about being anti-prohibition, because the prohibition of marijuana creates far more harm to individuals and society than marijuana consumption itself ever could. Connecticut has a rich history of resisting alcohol prohibition — it was one of two states that never approved the 18th Amendment, which ushered in prohibition. It should use that same wisdom today.

A better approach, regulation, has already been forged by other states
As it became increasingly obvious that prohibition was not working, states have begun to choose a more sensible approach – taxing and regulating cannabis similarly to alcohol. This trend began with Colorado and Washington in 2012, then Alaska and Oregon in 2014, then California, Maine, Massachusetts, and Nevada in 2016, and Michigan in 2018. Last year, Illinois became the 10th state to legalize cannabis for adult use, and the first in the country to adopt a regulatory system for cannabis cultivation, testing, and sales through a state legislature. Several other states are considered likely to follow suit this year. Connecticut can learn from the 10 states that have paved the way. Those states also illustrate the benefits of replacing prohibition with taxation and regulation.

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2 Columbia University, National Center on Addiction and Substance Abuse Survey, 2012.
3 GQR, Connecticut Voters Support Legalizing Recreational Marijuana, January 22, 2020
4 See https://www.wtnh.com/news/politics/poll-finds-majority-of-connecticut-residents-support-marijuana-legalization/1097524713

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For example, according to Gov. Jay Inslee and Attorney General Bob Ferguson of Washington state:

“Our state’s efforts to regulate the sale of marijuana are succeeding. A few years ago, the illegal trafficking of marijuana lined the pockets of criminals everywhere. Now, in our state, illegal trafficking activity is being displaced by a closely regulated marijuana industry that pays hundreds of millions of dollars in taxes. This frees up significant law enforcement resources to protect our communities in other, more pressing ways.”

Former Gov. John Hickenlooper of Colorado — who strongly opposed the 2012 initiative that legalized marijuana in his state — has said that, while implementation was challenging, it was “also one of the things I’m most proud of.” He also said that, from a “35,000-foot level,” things in Colorado have gone well, citing things like the fact that health officials have not seen increased teen use or a dramatic increase in overall consumption and that polls show residents are increasingly in favor of continued legalization.

As a result of other states leading the way by regulating marijuana, we also know more about the economic impacts. Massachusetts, for example, collected more than $76 million in tax revenue in 2019. Nevada, a state which a population of roughly 3 million, generated near $100 million in tax revenue in 2019. Adjusted to Connecticut’s population, that would be $210 million in revenue and more than 20,000 licensed cannabis employees. Unsurprisingly, the vast majority of marijuana sales have shifted to the legal market. By 2017, Colorado regulators reported, “Colorado’s preexisting illicit marijuana market for residents and visitors has been fully absorbed into the regulated market.” (Because most 40 states still have an illegal, unregulated market, illicit activity even in legal states continues to meet that out-of-state demand.)

Connecticut should move forward this year, before it becomes an island of prohibition. There is no good reason to continue with a destructive and wasteful policy of prohibition that tears families apart, deprives the state of revenue, and wastes law enforcement time. Instead, Connecticut should act now to replace prohibition with adult-use legalization and sensible regulation.

Massachusetts, Maine, and Vermont have already legalized marijuana for adults. Sales began in Massachusetts in November 2018, and they are expected to begin in Maine in late spring or summer. Vermont’s House and Senate passed a bill to allow for retail sales, which will be

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7 Id.
8 https://opendata.mass-cannabis-control.com/stories/s/Sales-and-Product-Distribution/xwwk-y3zr
9 https://tax.nv.gov/Publications/Marijuana_Statistics_and_Reports/
10 “Market Size And Demand For Marijuana In Colorado 2017 Market Update” Prepared for the Colorado Department of Revenue.
finalized soon in conference committee. The reality is most Connecticut residents are a relatively short drive from legal, regulated cannabis stores. New York’s legislature likely to legalize, and this year that trend will only continue to grow.

Up to seven states are also expected to have adult-use marijuana regulation measures on the 2020 ballot. Initiatives are already qualified for the ballot in New Jersey and South Dakota, and efforts for initiatives are underway in Arkansas, Missouri, Montana, North Dakota, and Oklahoma.

Connecticut polls consistently show voters would legalize and regulate cannabis if they had the power to do so. But only the legislature has that authority in Connecticut. Connecticut should treat adults like grown-ups, and let them make their own decisions — with appropriate health warnings. And it should begin to reap the economic benefits of moving from prohibition to regulation and taxation.

**Much of the opposition to this reform is based on myths and misconceptions about marijuana**

I would like to address two of the most prevalent myths and misconceptions associated with reducing or eliminating penalties for adult marijuana possession. First, some people worry that marijuana is a so-called “gateway” to the use of harder drugs. This concern has been debunked by every major study on the subject. For example, in a seminal 1999 report by the prestigious Institute of Medicine (IOM), part of the National Academy of Sciences, researchers found “marijuana is not the most common, and is rarely the first, ‘gateway’ to illicit drug use. There is no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs.”

The report went on to note, “There is no evidence that marijuana serves as a stepping stone on the basis of its particular physiological effect. ... Instead, the legal status of marijuana makes it a gateway drug.”

These findings have been confirmed by major peer-reviewed studies in the American Journal of Psychiatry, the British Journal of Addiction, and the Journal of Health and Social Behavior. As William Martin, Director, Baker Institute for Public Policy at Rice University, Texas, recently explained:

“[T]he overwhelming majority of people who use marijuana do not go on to use harder drugs. Of those who do, extensive research has concluded that the causal factors reside not in the drug itself, but in the complex of genetic, social and

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12 Id at 99.
15 “A Life Course Perspective on the Gateway Hypothesis,” Gundy and Rebello (2010), *Journal of Health and Social Behavior. Available at http://hsb.sagepub.com/content/51/3/244.abstract.*

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psychological factors that lead them to seek relief in mind-altering substances in the first place. Prohibition cannot address those problems, but it does serve as a gateway into the criminal justice system, which will make them immeasurably worse.”

This is particularly important as Connecticut is facing an opioid epidemic. While Connecticut has a restrictive medical marijuana law, surveys indicate that far fewer people register in state medical cannabis programs than use cannabis medically. Many are reluctant to be on a state registry, fear losing their gun rights, or have trouble finding—or affording—a doctor. Available evidence suggests that cannabis is an “exit drug” that can help people struggling to stop using opioids and alcohol. An international team recently conducted one of the most comprehensive surveys of its kind, which examined 60 studies on cannabis and mental health. According to Zach Walsh, Psychology Professor at the University of British Columbia and lead author of the study: “Research suggests that people may be using cannabis as an exit drug to reduce use of substances that are potentially more harmful, such as opioid pain medication.”

Second, opponents often claim that allowing adults to legally use cannabis will result in an increase in teenagers’ cannabis use. That is not borne out in the data. In fact, the most in-depth surveys suggest modest decreases in rates of youth cannabis use in Colorado and Washington, both of which approved initiatives to regulate cannabis like alcohol in 2012. Public health programs can further reduce teen use regardless of the legality of the substance for adults. This is illustrated by the impressive reduction in teens’ tobacco use, which has plummeted 79% from its peak in 1997. This was due to strict regulations on cigarette sales and advertising, plus a robust public education campaign. The same can be done for cannabis, and it will likely be more effective when that education is based on real research and not “reefer madness.”

II. Recommended Changes to SB 16 – Adult Use of Cannabis

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15 A 2013 Pew survey indicates 6% of Americans use marijuana medically (http://www.people-press.org/2013/04/04/majority-now-supports-legalizing-marijuana/). However, in most medical marijuana states, less than 2% of states’ populations are registered in states’ medical cannabis programs, with several states having less than 0.5% of the population enrolled (https://www.mpp.org/issues/medical-marijuana/state-by-state-medical-marijuana-laws/medical-marijuana-patient-numbers/).


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We strongly support the bill, which could replace a failed war on marijuana with sensible regulation, with a focus on public health, public safety, and social equity. However, we feel it could be stronger ask the committee to consider the following changes:

- Sections 2 and 3 establish possession limits and change the definition of infractions and misdemeanors related to cannabis possessions. Beginning on July 1, adults 21 and older could possess up to 1.5 ounces of cannabis, five grams of which can be concentrates, under state law. As drafted, possession and sale of cannabis paraphernalia would be permitted on July 1, 2022. On that same date cannabis products could be sold to consumers only by licensed cannabis retailers, though consumers may gift cannabis products to one another. However, until that date it would remain a crime to gift a cannabis product that was legally purchased in Massachusetts. MPP recommends amending the language to permit gifting a small amount of cannabis beginning on July 1, 2020, when possession becomes legal. Additionally, we are optimistic that the state can implement an equitable, well-regulated program in less than the two years and three months that are currently envisioned in the bill. Several states have implemented in far less time. We encourage that the language be amended to allow for legal sales to start sometime in 2021. Similarly, we recommend that home cultivation be allowed starting in July 2020. Or, if not, starting when stores open in 2022. Barring that, we encourage that the recommendations from DCP on the issue be issued far earlier than January 1, 2023.

- Sections 4 and 5 of the bill establish a process for the erasure of criminal records related to marijuana possession. Individuals with convictions for 4 ounces or less before October 1, 2015, will have their convictions automatically erased, while those with convictions after that date will need to file a petition with the courts to have the convictions. To lead the nation in equitable cannabis policy, we recommend that Connecticut also reduce or commute sentences of individuals incarcerated or on probation for other marijuana offenses. We recommend that other cannabis records — not just possession offenses — be eligible for expungement or erasure. Connecticut could allow anyone serving a sentence for a cannabis offense to petition to the existing sentence review board. Then, the review board could consider if resentencing would serve the interests of justice, taking into account that cannabis is being legalized and the history of racial disparities in cannabis enforcement. MPP also recommends that other cannabis records — not just possession offenses — should be eligible for expungement or erasure. MPP also encourages adding a provision to prohibit parole and probation revocation for using or testing positive for cannabis, as was the case under in last year’s proposal. There could be an exception if there is a finding specific to the individual that the condition is warranted to protect the public.

- Sections 18-19 establish a nine-member Equity Commission that will be supported administratively by the Department of Consumer Protection. The Equity Commission will be charged with promoting the licensing of equity applicants; establishing a process

19 SB 1085 (2019)
to best ensure access to the capital and training; establishing a micro-license for retail and delivery; providing for expedited or priority licensing for equity applicants; and establish a lower fee structure for equity applicants before the 2021 legislative session. We were encouraged to see that the Governor’s recent proposed budget provides extra resources to DCP in order for the department to adequately support the Equity Commission. While the bill includes a number of important provisions for equity, we believe more can be done to ensure increased opportunities for those from communities disproportionately impacted by prohibition. We recommend the following:

- Adding language to ensure the limitation on backers investing in multiple applicants does not limit financing for equity applicants. For example, backers could be allowed to invest in any number of equity applicants if they meet requirements — such as charging low interest rates or being operated as non-profits with caps on executive compensation. Access to capital has been one of the biggest obstacles to a more diverse industry.

- With the possible exception of fees on the largest growers, MPP recommends that language should be added to ensure that imposed fees are no more than what is necessary to process the applications or regulate the business. Excessive fees reduce diversity in the industry and favor those with deep pockets.

- Adding language to ensure the rapid review and approval of applications — especially for equity applications. Similarly, equity applicants should not have to lease or own the property until they get preliminary approval. Having to own or lease property during a slow licensing process has proven to be incredibly costly for equity applicants in other states.

- Microbusiness licenses should be available for all types of licenses — including cultivation — not just retail and delivery.

- Adding the word “significant” before “portion” regarding the commission’s recommendations to legislature for “provid[ing] for the distribution of a portion of tax revenues to support residents in disproportionately impacted” areas. We encourage the word “significant” be added before “portion” in this provision to ensure a significant amount of tax revenue goes to communities hard-hit by the drug war.

- Section 24 directs the Department of Consumer Protection to make legislative recommendations for the 2021 session regarding the market and licensing regime for cannabis. As drafted the bill currently requires the regulation of vaporizers sold at licensed cannabis businesses. However, many other stores and online retailers may sell vaping devices. We recommend amending the bill to require all cannabis vaporizers sold in Connecticut to meet health and safety requirements.
As drafted, it is possible that only medical cannabis producers will be licensed to cultivate adult-use cannabis. This would significantly limit opportunity. We recommend that additional growers be licensed from the outset. We also recommend adding language to ensure any cap on the number of cultivators includes tiers of growers based on their sizes, with a separate cap for each size.

Smaller growers should have lower fees, capital requirements, and regulatory requirements. Or, better yet, Connecticut could use a system like Colorado, whereby each cultivator can move up (or down) tiers. We recommend imposing a cap on the total canopy — with each grower having a cap for their tier — instead of the total number of growers would make more sense.

We further recommend that licensed on-site consumption be allowed when other businesses are licensed — at least in localities that opt in. Some individuals cannot use cannabis at home, including if they live in federally subsidized housing or most assisted living facilities. And some people are visitors and don’t live in Connecticut at all. Barring immediate licensing of on-site consumption, we encourage recommendations on allowing on-site consumption earlier than January 1, 2023.

- Sections 51-54 establish the taxation and revenues structure for cannabis. The taxes include excise taxes at the wholesale level and sales taxes at retail. The standard sales tax rate will apply statewide and towns will collect a 3% sales tax for their own revenues. The excise taxes are $1.25 per dry gram of flower, $0.50 per dry gram of trim, and $0.28 per gram for wet cannabis. The excise tax will be collected upon the first use, transfer, or sale of cannabis. This section does not seem to include a method of imposing a tax on cannabis that is sold to a manufacturer and turned into infused products. Also, it’s worth noting other states cultivators have strongly oppose the weight-based model for taxes. Massachusetts is currently taking an ad valorem approach. The taxation rate and method is should be reassessed every two or three years by DCP, and the tax should be crafted in a way to include both flower and infused products. It may be worth considering an ad valorem approach for regional uniformity.

- Finally, we recommend adding a labor peace provision. A labor peace provision that applies to any larger cannabis business (such as with 20 or more employees) would ensure workers in this emerging industry are treated fairly and with dignity.

In addition to those recommendations, we wanted to comment on the driving under the influence provisions:

- Section 10 updates the criminal impaired driving statute, CGS 14-227a. This section incorporates drug impairment evaluations in a similar manner to the current approach for a chemical test for alcohol. Specifically, this section allows for the admission in court of (1) the results of a drug influence evaluation performed by a certified drug recognition
expert, and (2) refusal of the non-testimonial aspects of the drug influence evaluation. This section also permits courts to take judicial notice that THC can impair a person's ability to operate a motor vehicle. Therefore, we understand the Governor's bill proposes to use the drug influence evaluation rather than blood THC levels to assess for impairment. MPP believes this provision to be an acceptable approach as Connecticut already has Drug Recognition Expert training to detect driver impairment. Police often use this training to detect drivers impaired by an array of prescription, over-the-counter, and illicit drugs. If the DRE indicates impairment, a blood test can also be taken to determine if the driver consumed marijuana. However, because THC lingers in the blood long after impairment has ended, the bill rightly directs courts to consider test results as just one piece of evidence, to determine if as a whole if there is enough evidence to prove that the person was impaired. MPP believes this is a commonsense approach to deter impaired driving.

In conclusion, thank you to Chair Winfield, Chair Stafstrom, and the members of the committee for your time and attention to this important issue. I respectfully urge the committee to strengthen and then pass

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

Sincerely,

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