

Testimony on H5555
House Judiciary Committee
Rhode Island State General Assembly
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This testimony is based on my own expertise and that of over a dozen top scientists who serve on the Advisory Board of Smart Approaches to Marijuana (SAM). Co-founded by former Rhode Island and U.S. Representative Patrick Kennedy, SAM is the leading, non-partisan, non-profit national organization offering a science-based approach to marijuana policy.

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House Bill 5555 is bad policy and should be opposed. A preliminary study SAM have just undertaken finds that legalization will cost the state \$XX – nearly 20% more than revenue projections made by marijuana advocates.

The bill also presents major public health and safety problems for Rhode Island and will result in many other negative consequences, for six main reasons:

- (1) H5555 would disproportionately affect lower-income communities of color
- (2) H5555 would increase drug use among Rhode Island kids;
- (3) H5555 would be a strain on Rhode Island's budget;
- (4) H5555 will reinforce, not diminish, the black market for marijuana, especially because the amounts allowed for home grows are excessive;
- (5) H5555 will aggravate drugged driving, creating costs likely to outweigh revenues;
- (6) H5555 would be a burden for Rhode Island's employers and business community;

A. Communities of Color

Unfortunately, the marijuana industry—comprised almost entirely of white men—has targeted communities of color, despite promises to the contrary. This should, perhaps, not be surprising: the tobacco and alcohol industries have long targeted such communities. One Johns Hopkins study revealed that predominantly African-American neighborhoods in Baltimore were eight

times more likely to have carry-out liquor stores than racially mixed or white neighborhoods.¹ And tobacco companies have historically placed larger amounts of advertising in African-American publications, exposing African-Americans to more cigarette ads than whites,² and have marketed more harmful and more addictive products to them.³

The marijuana industry is already copying the Big Tobacco playbook in Colorado. There, marijuana use is up overall. And in Denver, pot businesses are concentrated in lower-income, neighborhoods of color—one lower-income neighborhood has a pot business for every 47 residents.⁴

Moreover, in the two years after Colorado legalized marijuana, the number of Hispanic and black kids arrested for marijuana-related offenses rose 29 and 58 percent, respectively. In the same period, the number of white kids being arrested for identical crimes dropped eight percent.⁵ This is likely related to the rise in marijuana use among minors post-legalization—many activities surrounding marijuana use are still arrestable offenses, such as impaired driving. Seeing legalization as the solution to racial injustice in law enforcement is thus misguided.

B. Public health impact

The addictive nature and negative health effects of marijuana are numerous. A 2017 report by National Academy of Sciences (NAS) written by top scientists, entitled *The Health Effects of Cannabis and Cannabinoids: Current State of Evidence and Recommendations for Research*, concluded after a review of over 10,000 peer-reviewed academic articles, that marijuana use is connected to a number of problems, including:

- respiratory problems;
- mental health issues (like psychosis, social anxiety, and thoughts of suicide);
- increased risk of car accidents;
- progression to and dependence on tobacco, alcohol, and other drugs;

¹ Johns Hopkins Bloomberg School of Public Health. *Off-Premises Liquor Stores Targeted to Poor Urban Blacks*. 2000.

² CDC. African Americans and tobacco use. CDC, 17 Aug. 2016; U.S. Department of Health and Human Services. *Tobacco Use Among U.S. Racial/Ethnic Minority Groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General*. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 1998.

³ CDC. African Americans and tobacco use. CDC, 17 Aug. 2016; National Cancer Institute. *The Role of the Media in Promoting and Reducing Tobacco Use*. Smoking and Tobacco Control Monograph No. 19, NIH Pub. No. 07-6242, June 2008; Gardiner PS. The African Americanization of Menthol Cigarette Use in the United States. *Nicotine and Tobacco Research* 2004; 6:Suppl 1:S55-65; Ton HT, Smart AE, Aguilar BL, et al. Menthol enhances the desensitization of human alpha3beta4 nicotinic acetylcholine receptors. *Mol Pharmacol* 2015;88(2):256-64; Smokefree.gov. *Menthol Cigarettes*. Bethesda (MD): U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute, 2015.

⁴ Migoya, David, and Baca, Ricardo. “Denver’s pot businesses mostly in low-income, minority neighborhoods”. *The Denver Post*, 2 Jan. 2016.

⁵ Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics. *Marijuana Legalization in Colorado: Early Findings*. Denver, Mar. 2016.

- learning, memory, and attention loss (possibly permanent in some cases);
- and low birth weight.⁶

A study from March 2017 stated that “clear associations exist between cannabis use status in young adulthood and subsequent mental health and substance use.”⁷ As Rhode Island grapples with high mental illness and addiction rates, expanding the use of marijuana would be irresponsible.

Notably, NAS report also stated that, “in states where cannabis use is legal, there is increased risk of unintentional cannabis overdose injuries among children.”⁸ This connection with children is particularly pertinent given the rise in use by Colorado youth since legalization. The only nationally representative study on marijuana use, the National Survey on Drug Use and Health (NSDUH), indicates that Colorado leads the nation in last-month marijuana use among kids aged 12 to 17 years.⁹ It also shows that use among that age group has been increasing an average of one percent per year¹⁰ since legalization, while use across the nation is falling.¹¹

This is why national medical associations do not support marijuana legalization. For example, the American Medical Association states that “cannabis is a dangerous drug and as such is a public health concern; the sale should not be legalized.”¹² The American Academy of Pediatrics

⁶ National Academies of Sciences, Engineering, and Medicine. 2017. *The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research*. Washington, DC: The National Academies Press.

⁷ Silins, E., Swift, W., Slade, T., Toson, B., Rodgers, B., & Hutchinson, D. M. (2017). A prospective study of the substance use and mental health outcomes of young adult former and current cannabis users. *Drug and Alcohol Review*. Wiley-Blackwell. <https://doi.org/10.1111/dar.12512>

⁸ National Academies of Sciences, Engineering, and Medicine. 2017. *The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research*. Washington, DC: The National Academies Press.

⁹ Substance Abuse and Mental Health Services Administration (SAMHSA). National Survey on Drug Use and Health. Rockville, MD: Office of Applied Studies, SAMHSA. 2016.

¹⁰ The state-by-state NSDUH data is produced annually, but is calculated using overlapping two-year periods (e.g., 2011-2012, 2012-2013, 2013-2014, etc.). In this instance, yearly change is between two of those periods: 2011-2012 to 2012-2013, and so forth.

¹¹ In contrast, recent headlines claiming that use has not gone up in Colorado derive from an analysis of results from a state study, the Healthy Kids Colorado Survey (HKCS). State studies like HKCS often feed into the Centers for Disease Control Youth Behavior Risk Survey (YRBS). The HKCS, however, has been excluded from the CDC’s YRBS survey because of its unreliability, for two reasons. First, it suffers from serious methodological flaws. It is not a representative sample of Colorado schools, and excludes both the second most-populous and third-most populous counties altogether (Jefferson and Douglas Counties, respectively). It also omits schools in El Paso County, home to Colorado Springs, and excludes kids across the state who are not in school (e.g., dropouts). Also, the survey designers decided, without explanation, to set the threshold for statistical significance far higher, meaning that differences that would usually be statistically significant would not appear to be so under the new standard. Thus, the HKCS methodology is so flawed that the CDC does not use it for its YRBS survey. Second, a deeper dig of the HKCS results reveals distressing news. Youth use has risen statewide since legalization according to the survey, at about the same rate tobacco use has fallen in that same timeframe. Moreover, this increase since 2013 halted a four-year trend of declining marijuana use—the turning point occurred exactly when the state legalized pot. Nonetheless, most press coverage has glossed over these points.

¹² Report 2 of the Council on Science and Public Health (I-13), A Contemporary View of National Drug Control Policy. (2013). American Medical Association. Retrieved from <https://www.ama-assn.org/sites/default/files/media->

and American Academy of Adolescent Psychiatry, and American Society of Addiction Medicine all have serious concerns about marijuana and oppose legalization.¹³

C. H5555 would be a strain on Rhode Island’s budget

Legalized recreational marijuana will not bring in revenue for the state of Rhode Island to fix the budget deficit. The social costs associated with marijuana, some of which have been outlined above, far outweigh any revenue that it brings in. A preliminary study¹⁴ While advocates are quick to tout tax revenue as a counterbalance to this arrangement, like with the lottery, the additional funds are not nearly enough to fix budget shortfalls.

Marijuana legalization would also result in a variety of currently unquantifiable costs, including:

- Increases in alcohol use and abuse
- Increases in tobacco use
- More opioid abuse
- Increases in short-term/long-term recovery for marijuana use disorders
- Greater marijuana use among underage students
- Property and other economic damage from marijuana extraction lab explosions
- Controlling an expanded black market, sales to minors, and public intoxication
- Other administrative burdens of most state legalization programs, such as:
 - money for drugged driving awareness campaigns;
 - drug prevention programs; and
 - pesticide control and other agricultural oversight mechanisms
- Long-term health impacts of marijuana use

This last issue, in particular, represents a major cost of the two currently legal, addictive recreational drugs—tobacco and alcohol. Far too little is known about the recognized negative long-term health effects of marijuana use (among them increased rates of mental illness, respiratory problems, and a tendency to develop other substance abuse disorders) to make the same sort of cost models seen for tobacco, such as those done by University of California, San Francisco, researchers.¹⁵ Moreover, since research on the health effects of marijuana use is about on par with 1930s tobacco research, marijuana use may cause other health problems about which nothing is currently known. But the indirect costs of such long-term health impacts represent almost half of the cost of tobacco to the state of California,¹⁶ and it would be foolish not to recognize their impact here.

[browser/public/about-ama/councils/Council%20Reports/council-on-science-public-health/i13csaph2-summary-only.pdf](http://www.learnaboutsam.org/public/about-ama/councils/Council%20Reports/council-on-science-public-health/i13csaph2-summary-only.pdf).

¹³ Public Health Organizations’ Position on Medical Marijuana. [Web post, Smart Approaches to Marijuana]. (2016) Retrieved from <https://learnaboutsam.org/the-issues/public-health-organizations-positions-on-medical-marijuana/>.

¹⁴ Cite here as a working paper

¹⁵ Max et al. (2014). *The Cost of Smoking in California, 2009*. San Francisco, CA: Institute for Health & Aging, University of California, San Francisco, 2014. Retrieved from <http://www.trdrp.org/files/cost-smoking-ca-final-report.pdf>.

¹⁶ *Id.*

There are other reasons to be concerned. For example, over half the pot money promised for drug prevention, education and treatment in Washington state never materialized.¹⁷ And in Colorado, bureaucracy to regulate the industry continues to consume a large percentage of the revenue made.¹⁸

D. H5555 will reinforce, not diminish, the black market for marijuana

Perhaps most importantly, H5555 will roll out the red carpet for a larger black market for pot than currently exists. Although this may initially sound counterintuitive, a closer look at what has happened in Colorado (where non-medical marijuana was legalized in 2012) and in Oregon (where non-medical marijuana was legalized in 2014) reveals why.

A leaked January 2017 report from the Oregon State Police states that “cannabis legalization has not had a noticeable effect on Mexican [drug trafficking organizations’] illicit cannabis cultivation operations on public lands.”¹⁹ It also indicates that “only 30 percent of [Oregon’s marijuana] market activity is captured in legal transactions.”²⁰ *That means over two-thirds of Oregon’s marijuana transactions are illegal.*

Similarly, in February 2015, years after legalization passed, Colorado Attorney General Cynthia Coffman told reporters: “The criminals are still selling on the black market. ... We have plenty of cartel activity in Colorado [and] plenty of illegal activity that has not decreased at all.”²¹ Hard data supports this claim: organized crime filings have skyrocketed in Colorado. The state had one such filing in 2007 and by 2015, it had 40.²²

The surge in black marketeering derives from organized criminal groups “hiding in plain sight” in legalized states.²³ Marijuana growing and sales no longer attract the type of attention they did prior to legalization—and the taxes imposed on state-legalized pot necessary to pay for all the bureaucratic oversight create a large demand for cheaper product that the black market easily fills. House Bill 5555 will create similar incentives, including:

¹⁷ “State hasn’t met promise to fund marijuana mitigation.” Editorial. *The Seattle Times*. 17 May 2016. Retrieved from <http://www.seattletimes.com/opinion/editorials/state-hasnt-met-promise-to-fund-marijuana-mitigation/>.

¹⁸ McGovern, B. (2015, June 12). Colorado weed czar: Revenue up in smoke. *Boston Herald*. Retrieved from http://www.bostonherald.com/news_opinion/local_coverage/2015/06/colorado_weed_czar_revenue_up_in_smoke.

¹⁹ Oregon State Police. *A Baseline Evaluation of Cannabis Enforcement Priorities In Oregon*. 2017, available at: <http://media.oregonlive.com/marijuana/other/2017/03/20/statepolicesmaller.pdf>.

²⁰ *Id.*

²¹ “Special report, ‘Clearing the haze:’ Black market is thriving in Colorado.” *Colorado Springs Gazette*, 20 Mar. 2015. Retrieved from <http://gazette.com/special-report-clearing-the-haze-black-market-is-thriving-in-colorado/article/1548305>.

²² California Secretary of State. California General Election Tuesday November 8, 2016: Official Voter Information Guide. 2016.

²³ Durbin, Kaitlin. “Colorado Springs mayor: Day of reckoning coming for city’s illegal marijuana growers,” *Colorado Springs Gazette*. 28 May 2016; Gurman, Sadie. “Drug traffickers ‘hiding in plain sight’ amid legal Colorado marijuana.” *The Cannabist*. 28 Jan. 2016.

- Permitting personal possession of large amounts of marijuana, enough to engage in extensive black market activity—up to five ounces of marijuana per residence (enough for ~200 to 300 single-use joints).
- Allowing cultivation of significant amounts of marijuana in a residence—up to two plants per person or three plants per dwelling unit. A decent gardener with the proper equipment can generate a pound of marijuana per year per plant. If the product is of reasonable quality, a single residence can produce over ten thousand dollars of marijuana per year at retail prices.

E. Drugged Driving

Marijuana-impaired driving is increasingly responsible for traffic fatalities in Colorado and Washington since pot legalization was established there. According to the AAA Foundation for Traffic Safety, the percentage of traffic deaths related to marijuana doubled in Washington State the year retail marijuana sales were allowed.²⁴ In Colorado, marijuana is now involved in more than one of every five deaths on the road, and that number is rising.²⁵ Moreover, since the average cost to society of a traffic fatality, per the U.S. Department of Transportation, is over \$6 million, the rising rate of pot-related traffic deaths implies large economic and social costs.²⁶

F. Employers

Marijuana legalization also involves significant risks to existing businesses. According to the National Council on Alcoholism and Drug Dependence (NCADD), illegal drug use is responsible for annual economic losses of over \$80 billion.²⁷ As marijuana is by far the most widely used illegal drug, it is unsurprising that its use would trigger significant losses on its

²⁴ AAA Foundation for Traffic Safety. *Prevalence of Marijuana Involvement in Fatal Crashes: Washington, 2010-2014*. May 2016; Washington Traffic Safety Commission. *Driver Toxicology Testing and the Involvement of Marijuana in Fatal Crashes, 2010-2014*. Feb. 2016; Kaste, Martin. “More Washington drivers use pot and drive; effect on safety disputed.” *NPR.org*. 19 Aug. 2015.

²⁵ Fatality Analysis Reporting System and Colorado Department of Transportation (CDOT), as reported in Rocky Mountain HIDTA Investigative Support Center Strategic Intelligence Unit. *The Legalization of Marijuana in Colorado: The Impact*, Volume 4. Sept. 2016. Web. 23 Oct. 2016.

²⁶ U.S. Department of Transportation, *Treatment Of The Economic Value Of A Statistical Life In Departmental Analyses – 2011 Interim Adjustment*. 2011 (USDOT guidance on valuing reduction of fatalities and injuries by regulations or investments and setting value of life at \$6.2 million in 2011 dollars), available at https://www.transportation.gov/sites/dot.gov/files/docs/Value_of_Life_Guidance_2011_Update_07-29-2011.pdf.

²⁷ *Drugs and the Workplace* (Issue brief). (n.d.). Retrieved March 29, 2017, from National Council on Alcoholism and Drug Dependence Inc. website: <http://www.ocpa-oh.org/Drugs%20and%20the%20Workplace.pdf>.

own.²⁸ These workplace costs are of particular concern in Rhode Island, which was ranked 50th out of 50 states in CNBC's "America's Top States for Business 2016" scorecard.²⁹

Unlike cigarettes, marijuana's psychoactive properties intoxicate and create tangible problems in the workplace. A peer-reviewed study of thousands of employees indicated that marijuana users were unjustifiably absent from work 77 percent more often than non-users, and had a rate of workplace injuries 85 percent higher than that control group.³⁰ (They were also involved in workplace disciplinary incidents as a rate 55 percent higher than the control group,³¹ but there is less data available to quantify the costs of such behavior on employers' bottom line.)

Data from the National Drug Use and Health (NSDUH), the nation's premier annual survey on drug, alcohol, and tobacco use, supports this conclusion. Per the 2014 NSDUH, the last year for which detailed survey data is currently available, people who used marijuana in the last month were, *even when controlling for alcohol use*:

- 40 percent more likely to have missed at least one day of work in the last month due to injury or sickness; and
- 106 percent more likely—that is, *more than twice as likely*—to have missed at least one day of work in the last month because they “just didn't want to be there.”³²

As marijuana use has increased in states that have legalized its use, so has use by employees, both on and off the job. Data from major drug testing firm Quest Diagnostics, which analyzes the results millions of workplace drug tests each year, recently reported a 47 percent spike in the rate of positive oral marijuana test results in U.S. workplaces from 2013 to 2015 — and more detailed data shows an incredible 178 percent rise in that rate from 2011 to 2015. Quest Diagnostics also noted surges in positive test rates for marijuana in Colorado and Washington state following legalization. The year following legalization, marijuana positivity rates with

²⁸ Recent incidents in the United States and abroad underline this point. The engineer involved in a 2016 train crash that killed two line workers in Pennsylvania tested positive for marijuana use after the wreck, per a National Transportation Safety Board report. Halsey, A., III. (2017, January 26). *Amtrak engineer in fatal crash tested positive for marijuana, NTSB says*. Retrieved March 29, 2017, from https://www.washingtonpost.com/local/trafficandcommuting/amtrak-engineer-in-fatal-crash-tested-positive-for-marijuana-opioids-ntsb-says/2017/01/26/27e7fba6-e3f0-11e6-a453-19ec4b3d09ba_story.html?utm_term=.ab53162c3c70.

And more recently, two employees at a German BMW plant who got high just before reporting to their stations caused over \$1 million in losses after they caused an assembly line stoppage. Brown, A. (2017, March 20). *Stoned Assembly Line Workers Cost BMW \$1 Million in One Day, Report Claims*. Retrieved March 29, 2017, from http://www.thedrive.com/news/8449/stoned-assembly-line-workers-cost-bmw-1-million-in-one-day-reportclaimsutm_content=inf_10_3522_2&xid=socialedege_pd&tse_id=INF_930fda1010c911e7af245d7f4020bc76.

²⁹ CNBC.com. (2016). *America's Top States for Business 2016: The list and ranking*. Retrieved from <http://www.cnbc.com/2016/07/12/americas-top-states-for-business-2016-the-list-and-ranking.html>.

³⁰ Zwerling, C., (1990). “The Efficacy of Preemployment Drug Screening for Marijuana and Cocaine in Predicting Employment Outcome.” *JAMA: The Journal of the American Medical Association*. 264.20. 2639.

³¹ *Id.*

³² Substance Abuse and Mental Health Services Administration (SAMHSA). (2015) National Survey on Drug Use and Health, 2014. Rockville, MD: Office of Applied Studies, SAMHSA.

urine tests in Colorado and Washington increased 20 and 23 percent, respectively, compared to the five percent average increase among the U.S. general workforce.³³

Large businesses in Colorado also now state that after legalization, they have had to hire out-of-state residents to find employees that can pass a pre-employment drug screen. The CEO of the large Colorado construction company GE Johnson has said his company “has encountered so many job candidates who have failed pre-employment drug tests because of their THC use that it is actively recruiting construction workers from other states.”³⁴

G. Conclusion

Regardless of good intentions, House Bill 5555 is bad policy. It will increase marijuana use (including among children), make Rhode Island roads more dangerous, reduce businesses’ productivity, and target communities of color. It will also not help Rhode Island’s budget due to the costs of implementing the program and dealing with its consequences. And, ironically, it will not reduce black marketeering or criminal activity surrounding the drug. For those reasons, I urge you to join every major medical association in the country by not supporting marijuana legalization and opposing this bill.

³³ Quest Diagnostics. Workforce drug test Positivity rate increases for the First time in 10 years, driven by marijuana and amphetamines, finds quest diagnostics drug testing Index™ analysis of employment drug tests. *Quest Diagnostics Newsroom*, 11 Sept. 2014.

³⁴ “Drug use a problem for employers.” Editorial. *Colorado Springs Gazette*, 24 Mar. 2015.