



**Testimony in Relation to Legalizing Cannabis for Adult Recreation Use: S2430**

**Senate Judiciary Committee**

**March 15, 2022**

The Economic Progress Institute believes that if cannabis is legalized for adult recreational use, as proposed by Senate Bill 2430, **it ought to contain clear provisions advancing equity**, including equitable access to the new market, particularly for individuals harmed by the war on drugs and the decades-long criminalization of cannabis. In this regard, S2430 falls short of what such legislation must contain.

To begin, **the proposal does not do enough to reverse the harms done by the criminalization of cannabis**, to help those individuals who have criminal records for activities which will soon be perfectly legal:

- Although the language of the bill refers to *automatic expungement*, its use of the term does not match the common understanding. While the bill appears to grant automatic *approval* of requests for expungement, and without fees, it still requires individuals to take the initiative and file such requests. By contrast, in discussions over legalization, **automatic expungement generally refers to a process whereby the state takes on the role of reviewing and processing all expungements, without any action required by the individuals who would benefit**. A number of states (California, New Mexico, New York, and New Jersey) do just this, and Rhode Island should join them.
- In addition, this bill would limit expungement to the offense of *possession*. However, there are other offenses which should be eligible for expungement. For example, there are individuals who have criminal records for delivery merely for sharing cannabis with a friend; this is not even selling, let alone trafficking, and such records should be expunged as well. In addition, many cannabis charges and convictions have been accompanied by other charges and convictions, such as disorderly conduct or resisting arrest, and such records need to be expunged as well, as they never would have existed if not for the underlying cannabis arrest, charge, and conviction.

Secondly, although the intentions behind **the creation of a social equity assistance fund may be good, it is unclear how much funding this special account will contain**. It appears to be funded primarily, if not entirely, by means of yet-to-be-determined application and license fees along with penalty payments for civil violations. Unless and until a fiscal note casts some light on this, it is difficult to say how much money will likely flow to this fund, especially in comparison to the millions or tens of millions of dollars in tax revenue generated from sales. If the percentage of revenue generated from all sources (taxes, fees, penalties) is in the single



digits, even the low double digits, this funding will likely be woefully inadequate to help the individuals and communities most harmed by cannabis criminalization.

Another important equity issue is participation in the new legal market and its governance. In this regard, we do applaud the bill's provision for insisting that membership on the Cannabis Advisory Board "include residents from communities most impacted by cannabis prohibition, individual with prior drug convictions, the formerly incarcerated, and representatives of organizations servicing communities impacted by past federal and state drug policies."

Finally, we note that from a revenue perspective, independent of equity concerns, although taxation by sales price is a simple method used by most other states that have legalized cannabis, a potential downside of this approach is that prices are likely to drop over time, while consumption will likely level off. This makes taxing the sales price more volatile and less secure in the long run. Taxation by weight would prove somewhat more stable over time, and taxation by the potency of the active ingredient in cannabis would prove even more stable while setting a single rate across products, though this would require reliable laboratory analysis.

In the end, the Economic Progress Institute can only support a cannabis legalization plan that advances equity and combats past harms to the greatest extent possible. Although it does include some praiseworthy provisions, S2430, in its current form, does not reach this minimum standard.