

# LEGALIZE IT RIGHT

Dear Governor Northam and Members of the General Assembly,

In 2019, there were 1,924 drug possession arrests for youth, of which 54% were between the ages of 18–25 and most were young Black people. In 2020, that number grew to 2,015 arrests – still with a disparate impact on Black and Brown communities. That means too many people are introduced to the criminal legal system before the age of 25 – for simple possession.

Virginia has the incredible opportunity to be the first state in the South to legalize marijuana, but your job will not be complete if you don't legalize in a way that rights the wrongs of the disparate impact the War on Drugs has had on Black and Brown communities. It's imperative that you consider legalization with a racial equity lens in order to adopt legislation of which Virginians can be proud.

As a collective of multiple organizations, we come together to urge you to legalize marijuana right. We believe any legislation needs to meet these five criteria:

**Repeal the prohibition now.** The legal market and regulatory system will take time to set up. We can't risk more people being caught in the system for acting in ways that will soon be legal.

*Our ask: Legalize possession of less than one ounce and reduce the charge for possession of one ounce to five pounds to a civil penalty, effective July 1, 2021.*

**Take no action that will criminalize another generation of youth.** Young people are most impacted by the criminalization of marijuana use, yet the current legislation does nothing to break that awful cycle. Fines, drug tests, the denial of a driver's license, the beginning of a criminal record, the immediate expulsion for students with marijuana on school grounds are all harsh punishments for actions that are best treated with services, not punishment.

*Our ask: Treat minors in possession of marijuana as "children in need of services" rather than juvenile delinquents so they may receive community-based rehabilitation. Repeal the mandatory "zero tolerance" expulsion policy for students and make "intent to distribute" when everyone involved is under the age of 25 a civil penalty.*

**Repair the harm done by marijuana prohibition.** The criminalization of marijuana use has long-term impact on those who have been convicted. It's difficult to find jobs, housing and other services. That's a lifetime of punishment for relatively minor crimes that will soon no longer be illegal.

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*Our ask: Expunge automatically, and without cost, the criminal records of people convicted of marijuana-related felonies and misdemeanors. For people with felonies, the waiting period should be reduced from five to three years. The process for conducting resentencing hearings for those currently incarcerated should start on July 1, 2021. The onus for expungement should be on the state – not on the people who have already been unfairly punished.*

**Ensure that impacted people and communities have access to the new legal markets.** According to the JLARC study marijuana legalization could result in \$31 - \$62 million in sales in the first year and is expected to increase over time. That's new revenue for Virginia that will help our communities, but it is imperative that the people who have been most impacted have the opportunity to build wealth for their families and communities. It would be an injustice if the wealth and opportunities created by legalization favors only those who are already wealthy.

*Our ask: Fifty percent of the licenses should be set aside for social equity license holders. Those who have been most impacted by marijuana enforcement must be given every opportunity to reap the economic benefits of the legal market, as early as possible. Regulators should only be allowed to consider convictions that occurred within the past three years at the time of application—not seven, as currently written—and only those related to running a business. Last, close the employer loophole that qualifies businesses that have 10 or more employees and have a certain percentage of employees that have been impacted by the War on Drugs, or are family members of an impacted person or who come from an impacted community, to qualify for a social equity license. Ownership – not employment – is the key to economic power, and an objective of the legislation should be to ensure that the majority of licenses will be given to individual and communities that have been most impacted.*

*We believe that all license holders, both social equity licenses and non-social equity licenses, should be owned by Virginia residents. Each license is a ticket for families to build generational wealth. By diversifying the ownership of the licenses, rather than allowing only a few large corporations to dominate the market, we can keep marijuana businesses Virginia-owned, equitable and inclusive of communities that the Commonwealth has historically left behind.*

*We believe we should limit vertical integration to only micro-businesses. Banning vertical integration will allow more Virginians the opportunity to compete in the market, rather than a few people with full vertically integrated licenses to profit big. Virginia must break its cycle of legislating community disinvestment.*

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**Implement meaningful and specific reinvestment in the communities harmed by marijuana prohibition.** Legalizing marijuana with a racial equity lens means taking a hard look at the harm that the War on Drugs and marijuana prohibition have had on Black and Brown communities. The reinvestment fund has been touted as providing funding for scholarships, grants, contributions to the public defender system, low-interest loans for social equity licensees and more. The proposed 30% tax revenue set aside for these costs will not meet the depth of the needs of historically marginalized Virginians, and it undermines the ability of the Virginia Cannabis Business Equity Loan Fund to fully fund social equity licensees with an amount of capital necessary for recipients to compete successfully in the marketplace.

*Our ask: Commit 70% of marijuana excise tax revenues to the Cannabis Equity Reinvestment Fund, allowing them to do meaningful work in impacted communities and set social equity license recipients up for success. Of that 70%, 35% should fund the Virginia Cannabis Equity Business Loan Fund.*

We come together as organizations and individuals from across the Commonwealth to say that legalization of marijuana is one of the most important opportunities before you. Many states have legalized marijuana, but few have done it right. We have that opportunity now. Legislation centered around racial equity means you will not create more crimes, you will not criminalize a new generation of Black and Brown youth, you will not create new provisions that lead to disparate pretextual stops and automatic presumptions, and you will not make things worse before they are better. You will recognize and honor this as an opportunity to correct wrongs and value Black and Brown Virginians and the communities in which they live.

We ask you to support HB2312 and SB1406, with amendments that meet these five criteria. This is your time to make a difference – don't pass up the opportunity.

Centering Racial Justice and Social Equity,

ACLU of Virginia  
ACLU People Power Fairfax  
Angel Fire Wellness  
BLM 804  
Cannaclusive  
Cannabis Equity Coalition of  
Virginia (CECVA)

Commonwealth Equal  
Community Change - Black  
Freedom Collective  
Drug Policy Alliance  
Fairfax County Young Adult  
Committee  
Justice Forward Virginia  
Marijuana Justice

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Minorities 4 Medical Marijuana  
Mommies and Mary Jane  
NAACP Loudoun  
New Virginia Majority  
Racial Justice Alexandria  
Resource, Information, Help  
for the Disadvantaged and  
Disenfranchised (RIHD)

RISE for Youth  
The Activated People  
The Black Cannabis Group  
The Ounce Brand  
Virginia Justice Democrats  
Virginia Student Power Network  
Writing Our Way Out