



Frontier Peace Advisors

"Peace is the New Frontier"

www.frontierpeace.com

Frontier Peace is a private membership association dedicated to advancing libertarian principles in the Kansas legislative process. All funding for Frontier Peace comes from paid memberships, open to anyone.

March 16, 2022

Bob L. Corkins, Chief FPA Lobbyist

Re: Support of SB 560

Testimony delivered in-person orally

You might not guess that it could be difficult for libertarians to support a marijuana proposal. The simplest and purest bill that we could enthusiastically promote would merely repeal all existing criminality of marijuana possession, cultivation, sale and consumption. Period. But, despite its proposed imposition of new taxes, fees, licenses, use restrictions and regulatory bureaucracy, SB 560 is supported by the libertarian lobbying association for Kansas, Frontier Peace Advocates.

Naturally, FPA still encourages you to enact the most free-market approach to the cannabis industry that you can muster. Would any of you who are proponents of limited government and free-market policies agree that SB 560 is that? However, this bill is a decent (using that word in its most positive sense) and long overdue start in that direction.

Here is our justification for support: the scourge of cannabis prohibition has cost too many lives, has deprived too many people of physical relief, has spawned too much corruption, too many splintered families, too much prison overcrowding, and far too much expense to taxpayers. In short, prohibition has broken many more lives than it has "protected" and has mushroomed the dependency upon government. The downside of new regulation in this bill is greatly outweighed by the medical benefits of cannabis and by the immense downside of cannabis prohibition.

About those medical benefits, you'll hear expertise from other conferee proponents for today's bill, but we'll add this nugget from an anonymous medical doctor: "If medical marijuana was a synthetic pill produced by Pfizer and not a historically villainized substance, it would be fast-tracked by the FDA and celebrated as a "miracle drug" by every respectable health practitioner in America."

Percocet and OxyContin never had so much government obstruction to overcome as has cannabis. As you learn about the terrific effect cannabis legalization has had in curbing the opioid crisis, please keep judging the restrictions within SB 560 versus the existing (lesser) government restraints on opioid manufacture, sale and consumption. There is no sensible reason why our cannabis market should be more oppressive than that for opioids.

Your decision about how tightly Kansas should constrict a medical cannabis market will be the key to how much job creation, tax revenue, and patient relief we will see.

As the opponents of SB 560 try to defend prohibition and "throw shade" on cannabis use, we advise that you put their claims to the test with these facts and principles:

* Liberty – not fear, prohibition, or the status quo – should get the benefit of presumption in determining any public policy course.

* Cannabis is not very “addictive”. Medical terminology labels the potential of various substances to result in “use disorders”, which means habit forming to the degree of “abuse and dependency”. Marijuana’s potential for this is small in comparison to nicotine and alcohol. See, Attachment “A” below.

* Cannabis is not a “gateway drug”. Among many possible gateways, poverty is as likely as any. As recently as last April, the National Institutes of Health speculate on many such gateways and still conclude “Further research is needed to explore this question”. See, Attachment “B” below.

* Other than the legal fiction of *per se* possession or sale, crime is not caused by the use of cannabis. People who directly harm, defraud or steal from others should be penalized, regardless whether they’ve consumed cannabis, and penalties should focus on restitution rather than retribution.

- The level of THC in a person’s system is no indication of how impaired they are. Any crime committed by someone who tests positive for THC says nothing about causality. See, Attachment “C” below.
- As cannabis is increasingly made legal, law enforcement’s “closure rate” improves on the more serious criminal offenses. See, Attachment “D” below.
- Legalized medical marijuana is reducing violent drug crimes. See, Attachment “E” below.

Overall, FPA views SB 560 as a significant improvement upon last year’s House-passed version of medical marijuana (H.Sub. for SB 158). Key to this conclusion is your deletion of the “federal trigger” clause that would have -- whenever Congress removes marijuana from the Schedule I list of substances – instantly rendered worthless all Kansas dispensary licenses, requiring everything to be sold only through pharmacies as prescriptions, bankrupting legal cannabis retailers, and throwing thousands of people out of work.

Another improvement contained in SB 560’s proposal is section 44. Providing some legal insulation for financial services companies, meaning those which decide to cater to cannabis companies, shows a lot of wisdom that most states have ignored. Without such a safe harbor for the banking industry, Kansas would suffer the same pitfall of forcing cannabis to be a cash-only business.

Yet, SB 560 is equally as bad as the House-passed bill in other respects. For example, in section 40 it proposes onerous and redundant advertising regulations. Is there **any** rational basis for prohibiting a business from advertising the price of its products? And, virtually every conduct that’s sanctioned by section 40 is just as culpable and actionable under existing Kansas law – the Kansas Consumer Protection Act.

Further, in one important respect, SB 560 is worse than the House-passed bill in the level of fees that it imposes on would-be commercial licensees. Particularly for cultivators, its proposed fee is egregious for all but the largest of growers...and perhaps for all but one single grower. At a fee of \$4,000 per 100 square feet, and a maximum size of 50,000 square feet per licensee, one company that may decide to build the biggest grow facility possible in Kansas would incur an annual fee of \$2 million. An operation that size might be enough to supply 100% of the market demand for medical marijuana in

Kansas. Even if consumer demand here materializes quickly, maybe only two or three cultivators of this size would be all that Kansans could support. **This is a vitally important point because there is no legal interstate market for marijuana anywhere. No legal imports into any state, and no legal exports from any state. Cultivators can only grow here what is to be consumed here.** So, with this fee structure, you can forget having small or medium-sized cultivators. You can also forget farmers who desire to diversify their crops with cannabis because all growing must be indoors. And you can forget competitive pricing to consumers because, at best, we'll have an oligopoly of big cultivators who can command whatever price for their products that they choose.

Although the bill is less than ideal from our perspective, we support it as a good start and encourage you to reduce its regulatory burdens as much as you can for passage. Thank you for your time and consideration.

(See, Attachments, below)

Attachment “A”

A prominent study published by the Journal of the American Medical Association in 2015 quantifies the rate of marijuana “use disorders” as appearing in 30% of persons who use marijuana. This study covered American consumption from 2001 through 2013, it defined “use disorder” as including both “abuse and dependency”, and it found this rate to stay quite consistent despite rapidly growing U.S. consumption during the period. Putting this study in context, a reviewing doctor elaborated that:

Between 10 to 30% of regular users will develop dependency. Only about 9% will have a serious addiction... Compared to other substances, marijuana is not very addicting. It is estimated that 32% of tobacco users will become addicted, 23% of heroin users, 17% of cocaine users, and 15% of alcohol users. Cocaine and heroin are more physically harmful and nicotine is much more addictive. It is much harder to quit smoking cigarettes than it is to quit smoking pot.

“Prevalence of Marijuana Use Disorders in the United States Between 2001-2002 and 2012-2013”, Deborah S. Hasin, et al., JAMA Psychiatry. 2015;72(12):1235-1242, October 21, 2015.

<https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2464591>

The conclusions of this research reinforces an earlier study from 2010, available online at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3069146/>, that is summarized here:

Comparative Study > Drug Alcohol Depend. 2011 May 1;115(1-2):120-30.

doi: 10.1016/j.drugalcdep.2010.11.004. Epub 2010 Dec 8.

Probability and predictors of transition from first use to dependence on nicotine, alcohol, cannabis, and cocaine: results of the National Epidemiologic Survey on Alcohol and Related Conditions (NESARC)

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Affiliations + expand

PMID: 21145178 PMID: PMC3069146 DOI: 10.1016/j.drugalcdep.2010.11.004

[Free PMC article](#)

Abstract

Background: This study aims to estimate general and racial-ethnic specific cumulative probability of developing dependence among nicotine, alcohol, cannabis or cocaine users, and to identify predictors of transition to substance dependence.

Methods: Analyses were done for the subsample of lifetime nicotine (n=15,918), alcohol (n=28,907), cannabis (n=7389) or cocaine (n=2259) users who participated in the first and second wave of the National Epidemiological Survey on Alcohol and Related Conditions (NESARC). Discrete-time survival analyses were implemented to estimate the cumulative probability of transitioning from use to dependence and to identify predictors of transition to dependence.

Results: The cumulative probability estimate of transition to dependence was 67.5% for nicotine users, 22.7% for alcohol users, 20.9% for cocaine users, and 8.9% for cannabis users. Half of the cases of dependence on nicotine, alcohol, cannabis and cocaine were observed approximately 27, 13, 5 and 4 years after use onset, respectively. Significant racial-ethnic differences were observed in the probability of transition to dependence across the four substances. Several predictors of dependence were common across the four substances assessed.

Attachment “B”

Regarding whether marijuana is a “gateway” drug that moves its users toward harder, more serious drugs, the psychiatric term used for this type of effect is “cross-sensitization”. The majority of people who use marijuana do not go on to use other, “harder” substances. Any cross-sensitization is not unique to marijuana. Alcohol and nicotine also prime the brain for a heightened response to other drugs.

Still other factors are not biological, such as a person’s social environment, which is to say that poverty, for example, may be the “gateway”. And yet another hypothesis is that people who are more vulnerable to drug-taking are simply more likely to start with readily available substances such as tobacco, alcohol, or marijuana, and that their subsequent social interactions with others who use drugs increases their chances of trying other drugs.

Further research is needed to explore this question.

See, National Institutes of Health, National Institute on Drug Abuse, April 8, 2020, retrieved from <https://www.drugabuse.gov/publications/research-reports/marijuana/marijuana-gateway-drug>.

Attachment “C”

In its 2017 report to Congress, “Marijuana-Impaired Driving”, the National Highway Traffic Safety Administration concluded that “THC level in blood (or oral fluid) does not appear to be an accurate and reliable predictor of impairment from THC.” So, for example, a report that says 10% of burglaries were done by people “testing positive”, even for high levels of THC, proves nothing about causation.



<https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812440-marijuana-impaired-driving-report-to-congress.pdf>

NHTSA explains that:

... the consistent finding is that **the level of THC in the blood and the degree of impairment do not appear to be closely related.** Peak impairment does not occur when THC concentration in the blood is at or near peak levels. Peak THC level can occur when low impairment is measured, and high impairment can be measured when THC level is low. Thus, in contrast to the situation with alcohol, someone can show little or no impairment at a THC level at which someone else may show a greater degree of impairment.

A separate earlier study by the National Center for Biotechnology Information, “Cannabis Effects on Driving Skills”, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3836260/>, December 2012, reinforces this point:

[THC] has a long window of detection in blood, well after the acute effects dissipate (16). In less-than-daily cannabis smokers, [THC] was detected up to 7 days after the smoking of 1 joint containing approximately 38 mg THC (cutoff, 0.5 ng/mL) (17). THC blood concentrations decrease rapidly after smoking. Blood collection occurs about 90 min after arrest and 3 to 4 h after an accident —long enough that many samples have become cannabinoid negative, although the blood may have been positive at the time of the event. **There also were few cannabis-only cases; multiple drugs with potential to contribute to impairment were usually found.**

Attachment “D”

Police Quarterly

Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State

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Abstract

The legalization of recreational cannabis in Washington state (I-502) and Colorado (A-64) created a natural experiment with ancillary unknowns. Of these unknowns, one of the more heavily debated is that of the potential effects on public health and safety. Specific to public safety, advocates of legalization expected improvements in police effectiveness through the reduction in police time and attention to cannabis offenses, thus allowing them to reallocate resources to more serious offenses. Using 2010 to 2015 Uniform Crime Reports data, the research undertakes interrupted time-series analysis on the offenses known to be cleared by arrest to create monthly counts of violent and property crime clearance rate as well as disaggregated counts by crime type. Findings suggest no negative effects of legalization on crime clearance rates. Moreover, evidence suggests some crime clearance rates have improved. Our findings suggest legalization has resulted in improvements in some clearance rates.

Conclusion

While our results cannot specifically explain why police clearance rates have increased in Colorado and Washington, we think the argument that legalization did in fact produce a measurable impact on clearance rates is plausible. This reallocation is striking even though some realigning of resources by police departments away from enforcement of marijuana offenses likely took place well before legalization (i.e., when medical marijuana laws were passed). For example, in 2003, the largest city in Washington, Seattle, implemented a citizens' municipal ordinance initiative that directed the police to regard marijuana offenses as a law enforcement priority. In 2009, the third largest city in the state, Tacoma, passed a similar municipal ordinance by local initiative relating to marijuana possession and police priorities. Moreover, in 2009, Washington enacted a major further liberalization of its medical marijuana law and allowed a wide variety of persons to qualify as "medical providers," a change which meant there was much more "legal" marijuana available among the citizens throughout the state. In Colorado, we observed nearly identical initiatives involving deprioritization mandates and medical marijuana. For example, Denver voters approved a deprioritization mandate in 2007.

Our models show no negative effects of legalization and, instead, indicate that crime clearance rates for at least some types of crime are increasing faster in states that legalized than in those that did not. This result is strong, as the multiple group ITSA approach controls for both preintervention clearance rates in the treatment states and compares trends to a control average made up of states which did not legalize. That we found similar positive results for Colorado and Washington is particularly noteworthy and supportive of a potential resource

While we limit our analysis to clearance rates, it would seem vital to figure out what effect, if any, considerable improvements in clearance rates have on overall crime trends within a city, or in our unit of analysis, the state. As we document here, prior to legalization, several crimes clearance rates were either flat or decreasing. However, in the postlegalization period, we see considerable improvement. We cannot offer with absolute certainty that these changes are entirely the result of marijuana legalization, though we are quite certain that legalization has not unduly hampered police performance, at least as measured by clearance rates. Moreover, in the absence of other compelling explanations, the current evidence suggests that legalization produced some demonstrable and persistent benefit in clearance rates, benefits we believe are associated with the marijuana legalization proponents' prediction that legalization would positively influence police performance.

Attachment “E”

Issued in the Economic Quarterly, an international journal now in its 130th year of publication, is a study by the Norwegian School of Economics in partnership with the Pennsylvania State University Department of Sociology and Criminology, entitled ““Is Legal Pot Crippling Mexican Drug Trafficking Organisations? The Effect of Medical Marijuana Laws on US Crime”. The study’s Abstract summarizes that:

... marijuana legalization has led to a decrease in violent crime in U.S. states that border Mexico. We show that the introduction of medical marijuana laws (MMLs) leads to a decrease in violent crime in states that border Mexico. The reduction in crime is strongest for counties close to the border (less than 350 kilometres) and for crimes that relate to drug trafficking. In addition, we find that MMLs in inland states lead to a reduction in crime in the nearest border state.

More specifically, the study explains:

When we conduct a spillover analysis we find that when a neighbor to a Mexican-border state passes a MML, this results in a significant reduction in violent crime rates in the border state. More generally, we find that when a state passes a MML this reduces crime rates in the state in which the nearest Mexican border crossing is located. This evidence is consistent with our hypothesis that MMLs lead to a reduction in demand for illegal marijuana, followed by a reduction in revenue for Mexican DTOs [Drug Trafficking Organizations], and, hence, a reduction in violence in the Mexican border area.

...In reality, DTOs do not sell marijuana directly to the final consumers. Instead, they sell drugs to local gangs who resell the drug in retail markets in both inland and border states. In this respect, due to its geographical location, local gangs in California will likely resell drugs in states on the West Coast. Similarly, New Mexico forms a convenient smuggling route to states in the Mid-West, and the relevant retail market for gangs in Texas is provided by states in the South and East of the US.

...However, we also see that MMLs have a significant negative impact on juvenile-gang homicides in inland states. Because juvenile gangs are the main distributors of illicit drugs, this estimate indicates that MMLs may also have been effective in curbing drug violence in inland states as well as in border states.

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<https://doi.org/10.1111/eoj.12521>