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To: Joint Hearing on NY State Budget

From: Melissa Moore, New York State Director, Drug Policy Alliance

Testimony for February 23, 2021 on Marijuana Legalization and Regulation

My name is Melissa Moore and I am the New York State Director for the Drug Policy Alliance, the nation's leading organization working to advance policies and attitudes to best reduce the harms of both drug use and drug prohibition. The Drug Policy Alliance appreciates the opportunity to submit testimony on this issue.

We believe ending marijuana prohibition and taxing and regulating marijuana for adult use in New York is smart for our communities, for racial justice, and for our state's economy – if we get it right.

The Drug Policy Alliance and the Start SMART NY campaign (Sensible Marijuana Access through Regulated Trade) support the Marijuana Regulation and Taxation Act (MRTA, S.854,A.1248), a bill that would remove a tool that has been used to harm communities by effectively ending the ineffective, racially biased, and unjust enforcement of marijuana prohibition in New York and create a new, well-regulated, and inclusive marijuana industry that is rooted in racial and economic justice.

The bill co-sponsors, Senator Liz Krueger and Assembly Majority Leader Crystal Peoples-Stokes, have studied legalization outcomes in other states and applied those lessons to the Marijuana Regulation and Taxation Act, creating a gold standard for legislation to legalize marijuana responsibly that also comprehensively addresses the myriad harms of prohibition for workers, community members, and vulnerable New Yorkers from across the state. This bill is much stronger than the Governor's legalization proposal and we believe the MRTA should be the way that New York moves forward on legalization.

We support the MRTA because New York **MUST**:

- **Address harms of prohibition:** resolve devastating impacts of marijuana prohibition in the fields of immigration, housing, employment, child welfare, and other collateral consequences.
- Ensure an **equitable and diverse industry**, including having a social equity licensing program on day one, supporting farmers and small businesses over large corporations, and providing real banking and capital solutions.
- Use revenue from marijuana legalization for **restitution to communities** that have been most impacted by criminalization.

New York must lead the nation in legalizing adult-use marijuana swiftly with policy that is responsive to the massive problems generated by criminalization and rooted in racial and economic justice, which the MRTA does in ways where the Governor's proposal falls short.

Importantly, to legalize the right way, a significant portion of marijuana tax revenue should be reinvested in the communities that bore the worst of the arrest crusade and are now doubly pummeled by COVID-19. Such a move would also be responsive to budget shortfalls as a

result of COVID-19 and the resounding calls to shift resources away from criminalization and instead invest in building up communities holistically.

Legalization in NY must be centered in economic and racial justice now more than ever, because so many of the same communities targeted by drug enforcement are the ones with the least access to healthcare right now, the ones grappling with decades of the economic toll from criminalization, with low wages, unstable housing, and the ones losing jobs and loved ones at the same time due to COVID-19. The Drug Policy Alliance and the Start SMART coalition are reinforcing that community reinvestment of cannabis tax revenue and the creation of a diversified and equitable industry that supports New York-based small businesses and farmers will be imperative coming out of this crisis. The communities that are on the frontlines of the COVID-19 crisis--in addition to bearing the brunt of harmful marijuana enforcement--must be centered in our legalization effort.

The Marijuana Regulation and Taxation Act comprehensively meets these goals and would set a new national model by focusing benefits on those who have been harmed by prohibition--we urge the Legislature to pass the Marijuana Regulation and Taxation Act swiftly.

Why does New York Need Marijuana Justice?

More than 800,000 people have been arrested across New York in the last 25 years alone -- despite the Legislature decriminalizing low-level marijuana possession 40 years ago. Clearly decriminalization has failed New Yorkers. These arrests are also extremely racially biased: Although drug use occurs at similar rates across racial and ethnic groups, Black and Latinx individuals are arrested for possessing marijuana at vastly disproportionate rates all across the state. Any effort to legalize must be responsive to this legacy of immense harm.

The collateral consequences of a marijuana arrest under current New York law are significant. Decades of criminalization have impacted people's ability to secure housing, employment, and higher education, further exacerbating challenges marginalized communities faced before the pandemic and even more after. But removing prohibition itself does not necessarily alleviate the potential pitfalls of marijuana use by adults.

The MRTA tackles the unjust consequences of marijuana prohibition and the hyper-criminalization of communities, primarily communities of color and low-income areas, by creating a process for people who have been previously convicted for marijuana to have their records expunged and/or marijuana convictions vacated or reclassified, and resentence currently incarcerated individuals who are serving a sentence due to a marijuana-related offense. The MRTA also has provisions that will also address additional impacts in the fields of immigration, family law, and discrimination in housing and employment based on a prior marijuana arrest. Removing the significant barriers that New Yorkers face in the wake of a marijuana conviction will allow them to fully participate in society without the devastating toll across so many areas of their lives.

Removing prohibition is important but does not necessarily address collateral consequences people face from prior criminalization. The MRTA has clear provisions to intentionally and specifically address impacts in the fields of immigration, family law, and discrimination in housing and employment based on a prior marijuana arrest -- whereas the Governor's bill does not provide this comprehensive relief.

What Must Legalization Include?

Justice in Legalization

The Marijuana Regulation and Taxation Act includes crucial justice provisions to address prior harms of criminalization, including the following:

- Beyond clearing criminal records, either through expungement or vacatur, the MRTA also addresses the devastating impacts of prohibition in immigration and family law/child welfare, and protect against discrimination in housing and employment based on prior marijuana arrest or off-the-clock marijuana use
- Expand resentencing and reclassification of crimes for people previously convicted for marijuana, increasing opportunity for thousands of New Yorkers; and remove a positive marijuana test as justification for violating a person's parole or probation
- Protect against continued criminalization of youth and help people transition from the illicit to the legal market
- Remove marijuana as a reason to revoke probation/ parole or add penalties.
- New York must end the practice of using marijuana laws as an excuse to surveil and control people of color. The legislation proposed by the Governor to legalize must explicitly ban the practice of relying on marijuana odor as a pretext for a stop and search.

Community Reinvestment

Because prohibition and targeted, biased enforcement has harmed communities of color and low-income communities, legalization must be as comprehensive as the damage that has been done throughout the state.

Legalization must **make revenue available as restitution to communities** most harmed by prohibition for job training, economic empowerment, and youth development, and more.

This revenue must rightfully be earmarked to atone for the debt owed to New Yorkers who were targets of biased enforcement, which still disproportionately affects Black and Latinx New Yorkers. Reinvestment must be community-led, responsive to the harms caused, and accountable to communities.

Social Equity

Legalization--in terms of both tax revenue reinvestment and direct ownership/employment--can positively impact economic stability in communities that have traditionally struggled economically because of structural racism--but only if the Legislature establishes regulations and enacts policies that intentionally center equity. This is vital to prevent the marijuana industry from propagating inequality.

New York legalization must create avenues for participation by Black and Latino people and low-income people—in terms of employment **and ownership**--in order to avoid establishing new barriers for the people most harmed by marijuana criminalization. Such measures will help New York begin to repair its legacy of racially disparate marijuana enforcement.

Marijuana prohibition has come at a price – it has cost New Yorkers and especially people of color, their homes, children, citizenship, and freedom. And while marijuana reform is a welcome change – we cannot allow New Yorkers of color and people from lower low-income backgrounds to be locked out of this new industry.

Unfortunately, the economic boon produced by the creation of a legal marijuana market has not necessarily translated into opportunities for members of the communities that have been most impacted by prohibition in states that have legalized.

The history of marijuana prohibition in New York and lessons learned and cautionary tales from other states have produced a wealth of examples that **require** New York to preemptively address potential barriers as the state transitions away from prohibition.

We know that legalizing marijuana won't in and of itself transform our dominant economy--but we have an opportunity to disrupt business as usual and work to center communities and build wealth in the neighborhoods that bore the brunt of criminalization as we build this new industry in New York.

The Marijuana Regulation and Taxation Act crucially includes the following important provisions to address these concerns:

- Remove barriers to access like capital requirements and eliminating prohibitions on licensing to people with prior drug convictions
- Create a social equity program on day one, offering priority licensing for individuals and communities impacted by prohibition, including people impacted by prohibition.
- Create a licensing structure favorable for small businesses and small-scale cultivators, so that there are entry points for small businesses and individuals to participate in the market.
- Create a licensing structure that fosters a favorable environment to build ownership and wealth in communities that are traditionally sidelined and have been disproportionately impacted by the drug war and creates entry points for small businesses and family-scale farmers in New York.
- Include a microbusiness license, similar to New York's rapidly growing craft wine and beer industry, that allows small-scale production and sale plus delivery to reduce barriers to entry for people with less access to capital and traditional avenues of financing; this can also provide a transition point for people currently operating in the illicit market.
- Create a co-operative license to encourage entrepreneurs for whom access to capital is a barrier and support for small farmers.
- Allow delivery licenses and social consumption (also called on-site consumption) licenses, which provide entry points into the industry that are not as capital-intensive.

Incubator

Further, due to a number of factors--including continued lack of broad access to financing options--it is imperative to provide additional support to small-scale entrepreneurs, particularly aspiring business owners of color, if a goal of legalization is to build a diverse and inclusive market.

New York State must establish a small business incubator program as the MRTA does to provide direct support to small-scale operators who are marijuana license holders. The incubator program in the MRTA would provide direct support in the form of counseling services, education, small business coaching, compliance assistance, and funding in the form of grants or low- or zero-interest loans.

Conclusion

Given New York's sad legacy as the marijuana arrest capital, repairing the damage done by marijuana prohibition and ensuring that the communities most harmed can participate in the industry absolutely must be centered.

The Drug Policy Alliance and our partners believe that while legalizing marijuana for adult use will not alleviate all the challenges faced by those communities who are most criminalized, it will remove a tool that has been used to harm them.

It's up to us to ensure that the adult-use marijuana framework in New York does not benefit large corporate players over the communities that have been ravaged by overpolicing and the many small businesses and individuals from impacted communities who are poised to participate in the market.

We look forward to further conversations with the Legislature regarding the implementation of these recommendations.

Thank you for your time.