

**Written Testimony
New York Budget and Appropriations Committee Hearing
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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 U.S. Representative Patrick Kennedy, SAM is the leading non-partisan, non-profit national organization offering a science-based approach to marijuana policy.

I have studied, researched, and written about drug and criminal justice policy for more than 20 years. Most recently, from 2009-2011, I served in the Obama Administration as a senior drug policy advisor. I am currently the co-founder, with former Congressman Patrick J. Kennedy, of SAM (Smart Approaches to Marijuana). I am also the Director of the Drug Policy Institute at the University of Florida, an Adjunct Professor at Yale University, and the author of *Reefer Sanity: Seven Great Myths About Marijuana* and *Smoke Screen*.

While we should remove criminal penalties for use, expunge records, and invest in prevention and treatment, the legalization of marijuana is bad policy and should be opposed. Scientific literature on the harms of marijuana use exists in abundance: According to the National Academies of Sciences, there are over 20,000 peer-reviewed research articles linking marijuana use to severe mental health outcomes, ranging from depression to psychosis, as well as consequences for physical health, and brain development among other risks are often lost in conversations on legalization.

These outcomes would incur real costs in New York, at a time when hospital capacity is at the brink due to the pandemic.

In New York, the sponsor of the bill for recreational use has admitted that it would take several years before seeing revenue as a result of legalization. Moreover, for states that have legalized, revenue from marijuana sales often accounts for less than 1% of the budget. A study conducted in Connecticut found that the costs associated with marijuana legalization would total \$216 million, compared to an estimated \$113.6 million in projected tax revenue. In other words, marijuana's costs exceed the revenue by over 90%. This reflects a previous study SAM conducted in Rhode Island that found even a limited subset of marijuana legalization's costs will total \$61.2 million for the state in 2020—over 25 percent more than revenue projections made by marijuana activists.

Legalization presents major budgetary problems for New York, resulting in many costly, negative consequences, for six main reasons:

- (1) Legalization would disproportionately affect lower-income communities of color

- (2) Legalization would increase drug use among New York kids;
- (3) Legalization would be a strain on New York's budget;
- (4) Legalization will reinforce, not diminish, the black market for marijuana, **as proven by states who have legalized**
- (5) Legalization will aggravate drugged driving, creating costs likely to outweigh revenues;
- (6) Legalization would be a burden for New York's employers and business community;

A. Communities of Color

Unfortunately, the marijuana industry 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. An early study of medical marijuana implementations in California found that marijuana dispensaries were disproportionately located within areas where the demand for marijuana was higher, where there were higher rates of poverty as well as greater number of alcohol outlets. In other words, when choosing where to locate dispensaries, owners followed the data to low-income communities. Further studies of Los Angeles dispensaries found that the majority of dispensaries have opened primarily African American communities.

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;
- learning, memory, and attention loss (possibly permanent in some cases);
- and low birth weight.¹

Many studies have linked marijuana and bad mental health outcomes. One such stated that “clear associations exist between cannabis use status in young adulthood and subsequent mental health and substance use.”² Given these findings, expanding the use of marijuana would be irresponsible.

¹ 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.

² 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>

Notably, NAS report also stated that, “in states where cannabis use is legal, there is increased risk of unintentional cannabis overdose injuries among children.”³ These overdose injuries would translate to real costs.

In the article, “Legalized Cannabis Brings New Challenges for Health Care Providers,” a University of Michigan Health Lab article stated: “Marijuana’s growing availability and public acceptance has brought unintended consequence for users — including some who end up needing emergency care.”⁴ Experiences both in US legalized states⁵ and in Canada⁶ bear this out.

C. Legalization would be a strain on New York’s budget

When costs are counted, legalized recreational marijuana will not bring in revenue for the state of New York. The social costs associated with marijuana, some of which have been outlined above, far outweigh any revenue that it brings in. A study SAM has just undertaken in Connecticut found that the costs associated with marijuana legalization would total \$216 million, compared to an estimated \$113.6 million in projected tax revenue. In other words, marijuana’s costs exceed the revenue by over 90%.⁷ 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. Every year, there will always be claims of a silver bullet for the budget. Yet, as history shows us, every year, there is always need for something more. Marijuana will not be a workable, pragmatic, or even helpful solution in the short or long term.

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

³ 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.

⁴ See <https://labblog.uofmhealth.org/industry-dx/marijuana-intoxication-at-emergency-departments-perfcon>

⁵ See <https://www.cbsnews.com/news/after-legalization-marijuana-related-er-visits-climb-at-colorado-hospital/>

⁶ See <https://calgaryherald.com/cannabis/cannabis-health/cannabis-related-hospital-visits-spike-since-legalization-physicians>

⁷The Projected Costs Of Marijuana Legalization In Connecticut (January 2018). Smart Approaches to Marijuana. <https://learnaboutsam.org/wp-content/uploads/2018/02/SAM-CT-Report-Costs-Marijuana2123.pdf>

This last issue, in particular, represents a major cost of the two currently legal, addictive recreational drugs—tobacco and alcohol. Currently these two drugs account for many of today’s top health conditions and health care costs. 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.⁸ 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,⁹ and it would be foolish not to recognize their impact here.

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.¹⁰

The governor has repeatedly argued that taxing and regulating cannabis will help fill a historic, \$15 billion budget deficit. However, the bill’s cosponsor has admitted that revenue will take several years before materializing. For most states that have legalized, marijuana revenue usually accounts for less than 1% of the budget.

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

Legalization 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.”¹¹ It also indicates that “only 30 percent of [Oregon’s marijuana] market activity is captured in legal transactions.”¹² *That means over two-thirds of Oregon’s marijuana transactions are illegal.* There have been similar experiences in Ontario, Canada, with the Auditor-General there stating, “Despite the legalization of cannabis in October

⁸ 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>.

⁹ *Id.*

¹⁰ “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/>.

¹¹ 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>.

¹² *Id.*

2018, the illegal sale of recreational cannabis accounted for about 80 per cent of cannabis sales in the province in 2019-20.”¹³

E. 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.¹⁴ As marijuana is by far the most widely used illegal drug, it is unsurprising that its use would trigger significant losses on its own.¹⁵

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.¹⁶ (They were also involved in workplace disciplinary incidents as a rate 55 percent higher than the control group,¹⁷ 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 NSDUH, 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.”¹⁸

¹³ See <https://www.thestar.com/politics/provincial/2020/12/07/ontario-needs-better-consumer-oversight-on-everything-from-condos-and-coffins-to-cannabis-auditor-general-says.html>

¹⁴ *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>.

¹⁵ 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=socialedge_pd&tse_id=INF_930fda1010c911e7af245d7f4020bc76.

¹⁶ 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.

¹⁷ *Id.*

¹⁸ Substance Abuse and Mental Health Services Administration (SAMHSA). (2015) National Survey on Drug Use and Health, 2014. Rockville, MD: Office of Applied Studies, SAMHSA.

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 large spike in drug testing positives in legal states.¹⁹

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.”²⁰

F. Drugged Driving

Driving while under the influence of marijuana has proved an increasingly damaging phenomenon due to the legalization and normalization of marijuana in the United States. The Centers for Disease Control and Prevention found that, in 2018, 12 million U.S. residents reported driving under the influence of marijuana. This represents 4.7% of the driving population and translates to real costs.

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. We’ve seen increases in Colorado and Alaska as well.

G. Conclusion

Regardless of good intentions, legalization is bad policy. It will incur real financial costs to the state of New York, by increasing marijuana use (including among children), and thus resulting in numerous consequences.

¹⁹ 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.

²⁰ “Drug use a problem for employers.” Editorial. *Colorado Springs Gazette*, 24 Mar. 2015.