



Councilmember Ben Bartlett
City of Berkeley, District 3

CONSENT CALENDAR
March 13, 2018

To: Honorable Mayor and Members of the City Council

From: Councilmember Ben Bartlett and Councilmember Cheryl Davila

Subject: Support for the Marijuana Justice Act of 2018

RECOMMENDATION

Adopt a Resolution of support for The Marijuana Justice Act of 2018, the comprehensive marijuana reform legislation that has been introduced by Congresswoman Barbara Lee. Send a copy of the resolution to Congresswoman Barbara Lee.

BACKGROUND

A 2013 report by the ACLU¹ revealed that our country has misspent billions of dollars on racially biased arrests:

“Over-Policing: Between 2001 and 2010, there were over 8 million pot arrests in the U.S. That’s one arrest every 37 seconds and hundreds of thousands ensnared in the criminal justice system.

Wasted Time and Money: Enforcing marijuana laws costs us about \$3.6 billion a year, yet the War on Marijuana has failed to diminish the use or availability of marijuana.

Staggering Racial Bias: Marijuana use is roughly equal among Blacks and whites, yet Blacks are 3.73 times as likely to be arrested for marijuana possession.”

The bill, HR 4815, would (1) end the federal criminalization of cannabis; (2) incentivize states to mitigate existing and ongoing racial disparities in state-level marijuana arrests²; (3) expunge federal convictions specific to marijuana possession; (4) allow individuals currently serving time in federal prison for marijuana-related violations to petition the court

¹ American Civil Liberties Union. “The War On Marijuana in Black and White.” ACLU. Retrieved February 12, 2018 <https://www.aclu.org/report/report-war-marijuana-black-and-white?redirect=criminal-law-reform/war-marijuana-black-and-white>

² This includes earmarking money to provide job training to communities subject to disproportionately high numbers of cannabis related arrests, and cutting federal funds for law enforcement and prison construction in states where cannabis related arrests have disproportionately affected people of color or poor people.

for resentencing; (5) and create a community reinvestment fund to invest in communities most impacted by the failed War on Drugs.

The Marijuana Justice Act is groundbreaking not only because it legalizes cannabis, but also because it is an attempt to account for the harms imposed by the war on drugs on people of color and poor people.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

CONTACT PERSON

Councilmember Ben Bartlett, 510-981-7130

Attachments:

- 1: Resolution in Support of the Marijuana Justice Act of 2018
- 2: Bill Text of the Marijuana Justice Act of 2018

RESOLUTION NO. ##,###-N.S.

SUPPORT FOR HR 4815, THE MARIJUANA JUSTICE ACT OF 2018

WHEREAS, between 2001 and 2010, there were over 8 million pot arrests in the U.S; and

WHEREAS, enforcing marijuana laws costs us about \$3.6 billion a year, yet the War on Marijuana has failed to diminish the use or availability of marijuana; and

WHEREAS, marijuana use is roughly equal among Blacks and whites, yet Blacks are 3.73 times as likely to be arrested for marijuana possession; and

WHEREAS, Attorney General Sessions's decision to rescind the Cole memo has made clear that the Trump Administration will continue to promote unjust marijuana criminalization policies, and

WHEREAS, it is imperative that we legalize cannabis, which has been and will continue to be a tool for targeting and criminalizing people of color; and

WHEREAS, in addition to legalizing cannabis, it is also imperative that we provide restitution for the harms already caused by the war on drugs and disproportionately experienced by people of color and poor people.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley calls upon Congress to pass and the President to sign HR 4815, the Marijuana Justice Act of 2018.

115TH CONGRESS
2D SESSION

H. R. 4815

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2018

Ms. LEE (for herself, Mr. KHANNA, Ms. JACKSON LEE, Mr. COHEN, Ms. NORTON, Mr. RUSH, Mr. BLUMENAUER, Mr. DANNY K. DAVIS of Illinois, Mr. POLIS, Mr. JEFFRIES, Ms. JAYAPAL, Ms. CLARKE of New York, Ms. FUDGE, Mr. PAYNE, Mr. THOMPSON of Mississippi, Ms. WILSON of Florida, Mr. POCAN, Ms. GABBARD, and Mr. RASKIN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Agriculture, Natural Resources, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marijuana Justice Act
5 of 2018”.

1 **SEC. 2. DE-SCHEDULING MARIHUANA.**

2 (a) MARIHUANA REMOVED FROM SCHEDULE OF
3 CONTROLLED SUBSTANCES.—Subsection (c) of schedule
4 I of section 202(c) of the Controlled Substances Act (21
5 U.S.C. 812) is amended—

6 (1) by striking “marihuana”; and

7 (2) by striking “tetrahydrocannabinols”.

8 (b) REMOVAL OF PROHIBITION ON IMPORT AND EX-
9 PORT.—Section 1010(b) of the Controlled Substances Im-
10 port and Export Act (21 U.S.C. 960) is amended—

11 (1) in paragraph (1)—

12 (A) in subparagraph (F), by inserting “or”
13 after the semicolon;

14 (B) by striking subparagraph (G); and

15 (C) by redesignating subparagraph (H) as
16 subparagraph (G);

17 (2) in paragraph (2)—

18 (A) in subparagraph (F), by inserting “or”
19 after the semicolon;

20 (B) by striking subparagraph (G); and

21 (C) by redesignating subparagraph (H) as
22 subparagraph (G);

23 (3) in paragraph (3), by striking “paragraphs
24 (1), (2), and (4)” and inserting “paragraphs (1) and
25 (2)”;

26 (4) by striking paragraph (4); and

1 (5) by redesignating paragraphs (5), (6), and
2 (7) as paragraphs (4), (5), and (6), respectively.

3 (c) CONFORMING AMENDMENTS TO CONTROLLED
4 SUBSTANCES ACT.—The Controlled Substances Act (21
5 U.S.C. 801 et seq.) is amended—

6 (1) in section 102(44) (21 U.S.C. 802(44)), by
7 striking “marihuana,”;

8 (2) in section 401(b) (21 U.S.C. 841(b))—

9 (A) in paragraph (1)—

10 (i) in subparagraph (A)—

11 (I) in clause (vi), by inserting
12 “or” after the semicolon;

13 (II) by striking (vii); and

14 (III) by redesignating clause
15 (viii) as clause (vii);

16 (ii) in subparagraph (B)—

17 (I) by striking clause (vii); and

18 (II) by redesignating clause (viii)
19 as clause (vii);

20 (iii) in subparagraph (C), in the first
21 sentence, by striking “subparagraphs (A),
22 (B), and (D)” and inserting “subpara-
23 graphs (A) and (B)”;

24 (iv) by striking subparagraph (D);

1 (v) by redesignating subparagraph (E)
2 as subparagraph (D); and

3 (vi) in subparagraph (D)(i), as so re-
4 designated, by striking “subparagraphs (C)
5 and (D)” and inserting “subparagraph
6 (C)”;

7 (B) by striking paragraph (4); and

8 (C) by redesignating paragraphs (5), (6),
9 and (7) as paragraphs (4), (5), and (6), respec-
10 tively;

11 (3) in section 402(c)(2)(B) (21 U.S.C.
12 842(c)(2)(B)), by striking “, marihuana,”;

13 (4) in section 403(d)(1) (21 U.S.C. 843(d)(1)),
14 by striking “, marihuana,”;

15 (5) in section 418(a) (21 U.S.C. 859(a)), by
16 striking the last sentence;

17 (6) in section 419(a) (21 U.S.C. 860(a)), by
18 striking the last sentence;

19 (7) in section 422(d) (21 U.S.C. 863(d))—

20 (A) in the matter preceding paragraph (1),
21 by striking “marijuana,”; and

22 (B) in paragraph (5), by striking “, such
23 as a marihuana cigarette,”; and

1 (8) in section 516(d) (21 U.S.C. 886(d)), by
2 striking “section 401(b)(6)” each place the term ap-
3 pears and inserting “section 401(b)(5)”.

4 (d) OTHER CONFORMING AMENDMENTS.—

5 (1) NATIONAL FOREST SYSTEM DRUG CONTROL
6 ACT OF 1986.—The National Forest System Drug
7 Control Act of 1986 (16 U.S.C. 559b et seq.) is
8 amended—

9 (A) in section 15002(a) (16 U.S.C.
10 559b(a)) by striking “marijuana and other”;

11 (B) in section 15003(2) (16 U.S.C.
12 559c(2)) by striking “marijuana and other”;
13 and

14 (C) in section 15004(2) (16 U.S.C.
15 559d(2)) by striking “marijuana and other”.

16 (2) INTERCEPTION OF COMMUNICATIONS.—Sec-
17 tion 2516 of title 18, United States Code, is amend-
18 ed—

19 (A) in subsection (1)(e), by striking “mari-
20 huana,”; and

21 (B) in subsection (2) by striking “mari-
22 huana,”.

23 **SEC. 3. INELIGIBILITY FOR CERTAIN FUNDS.**

24 (a) DEFINITIONS.—In this section—

1 (1) the term “covered State” means a State
2 that has not enacted a statute legalizing marijuana
3 in the State;

4 (2) the term “disproportionate arrest rate”
5 means—

6 (A) the percentage of minority individuals
7 arrested for a marijuana related offense in a
8 State is higher than the percentage of the non-
9 minority individual population of the State, as
10 determined by the most recent census data; or

11 (B) the percentage of low-income individ-
12 uals arrested for a marijuana offense in a State
13 is higher than the percentage of the population
14 of the State that are not low-income individ-
15 uals, as determined by the most recent census
16 data;

17 (3) the term “disproportionate incarceration
18 rate” means the percentage of minority individuals
19 incarcerated for a marijuana related offense in a
20 State is higher than the percentage of the non-mi-
21 nority individual population of the State, as deter-
22 mined by the most recent census data;

23 (4) the term “low-income individual” means an
24 individual whose taxable income (as defined in sec-
25 tion 63 of the Internal Revenue Code of 1986) is

1 equal to or below the maximum dollar amount for
2 the 15 percent rate bracket applicable to the indi-
3 vidual under section 1 of the Internal Revenue Code
4 of 1986;

5 (5) the term “marijuana” has the meaning
6 given the term “marihuana” in section 102 of the
7 Controlled Substances Act (21 U.S.C. 802); and

8 (6) the term “minority individual” means an in-
9 dividual who is a member of a racial or ethnic mi-
10 nority group.

11 (b) INELIGIBILITY FOR CERTAIN FUNDS.—

12 (1) IN GENERAL.—For any fiscal year begin-
13 ning after the date of enactment of this Act in which
14 the Attorney General, acting through the Director of
15 the Bureau of Justice Assistance, determines that a
16 covered State has a disproportionate arrest rate or
17 a disproportionate incarceration rate for marijuana
18 offenses, the covered State—

19 (A) shall not be eligible to receive any Fed-
20 eral funds for the construction or staffing of a
21 prison or jail; and

22 (B) shall be subject to not more than a 10-
23 percent reduction of the funds that would oth-
24 erwise be allocated for that fiscal year to the
25 covered State under subpart 1 of part E of title

1 I of the Omnibus Crime Control and Safe
2 Streets Act of 1968 (42 U.S.C. 3750 et seq.),
3 whether characterized as the Edward Byrne
4 Memorial State and Local Law Enforcement
5 Assistance Programs, the Local Government
6 Law Enforcement Block Grants Program, the
7 Edward Byrne Memorial Justice Assistance
8 Grant Program, or otherwise.

9 (2) FUNDS FOR CERTAIN PROGRAMMING.—For
10 purposes of paragraph (1)(A), Federal funds for the
11 construction or staffing of a prison or jail shall not
12 include Federal funds used by a prison or jail to
13 carry out recidivism reduction programming or drug
14 addiction treatment.

15 (3) REALLOCATION.—Any amounts not award-
16 ed to a covered State because of a determination
17 under paragraph (1) shall be deposited in the Com-
18 munity Reinvestment Fund established under section
19 4.

20 (c) EXPUNGEMENT OF MARIJUANA OFFENSE CON-
21 VICTIONS.—Each Federal court shall issue an order
22 expunging each conviction for a marijuana use or posses-
23 sion offense entered by the court before the date of enact-
24 ment of this Act.

25 (d) SENTENCING REVIEW.—

1 (1) IN GENERAL.—For any individual who was
2 sentenced to a term of imprisonment for a Federal
3 criminal offense involving marijuana before the date
4 of enactment of this Act and is still serving such
5 term of imprisonment, the court that imposed the
6 sentence, shall, on motion of the individual, the Di-
7 rector of the Bureau of Prisons, the attorney for the
8 Government, or the court, conduct a sentencing
9 hearing.

10 (2) POTENTIAL REDUCED RESENTENCING.—
11 After a sentencing hearing under paragraph (1), a
12 court may impose a sentence on the individual as if
13 this Act, and the amendments made by this Act,
14 were in effect at the time the offense was committed.

15 (e) RIGHT OF ACTION.—

16 (1) IN GENERAL.—An individual who is ag-
17 grieved by a disproportionate arrest rate or a dis-
18 proportionate incarceration rate of a State may
19 bring a civil action in an appropriate district court
20 of the United States.

21 (2) RELIEF.—In a civil action brought under
22 this subsection in which the plaintiff prevails, the
23 court shall—

24 (A) grant all necessary equitable and legal
25 relief, including declaratory relief; and

1 (B) issue an order requiring the Attorney
2 General, acting through the Director of the Bu-
3 reau of Justice Assistance, to—

4 (i) declare the State to be ineligible to
5 receive any Federal funds for the construc-
6 tion or staffing of a prison or jail in ac-
7 cordance with subsection (b)(1)(A); and

8 (ii) reduce grant funding of the State
9 in accordance with subsection (b)(1)(B).

10 **SEC. 4. COMMUNITY REINVESTMENT FUND.**

11 (a) ESTABLISHMENT.—There is established in the
12 Treasury of the United States a fund, to be known as the
13 “Community Reinvestment Fund” (referred to in this sec-
14 tion as the “Fund”).

15 (b) DEPOSITS.—The Fund shall consist of—

16 (1) any amounts not awarded to a covered
17 State because of a determination under section
18 3(b)(1); and

19 (2) any amounts otherwise appropriated to the
20 Fund.

21 (c) USE OF FUND AMOUNTS.—Amounts in the Fund
22 shall be available to the Secretary of Housing and Urban
23 Development to establish a grant program to reinvest in
24 communities most affected by the war on drugs, which

1 shall include providing grants to impacted communities for
2 programs such as—

3 (1) job training;

4 (2) reentry services;

5 (3) expenses related to the expungement of con-
6 victions;

7 (4) public libraries;

8 (5) community centers;

9 (6) programs and opportunities dedicated to
10 youth;

11 (7) the special purpose fund discussed below;

12 and

13 (8) health education programs.

14 (d) AVAILABILITY OF FUND AMOUNTS.—Amounts in
15 the Fund shall be available without fiscal year limitation.

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Fund
18 \$500,000,000 for each of fiscal years 2018 through 2040.

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