Marijuana Legalization: Policy Recommendations for Maryland

Four U.S. states including Colorado, Washington, Oregon, and Alaska, as well as the District of Columbia, have passed laws legalizing the use of recreational marijuana for adults. Uruguay is the only country to have legalized and regulated every level of the market for marijuana.

Summary of current Maryland state law
To date, Maryland has decriminalized, but not legalized, marijuana. As of Oct. 1, 2014 it is now a civil (no longer criminal) offense to use or possess fewer than 10 grams of marijuana. The penalty is a fine not exceeding $100. A second offense is a fine not exceeding $250. The third or subsequent offense is a fine not exceeding $500 and possibly a court ordered drug education program and/or assessment for substance use disorder and subsequent referral to substance use treatment.

The Natalie M. LaPrade Maryland Medical Cannabis Commission promulgated final regulations for the legal use of marijuana for medical purposes, which became effective in September 2015. The regulations cover patients, physicians, growers, processors, dispensaries, independent testing laboratories, inspection, enforcement, and license fees. Dispensing of marijuana is now permitted at facilities called “cannabis processors,” whereas previously it could only be dispensed at teaching hospitals. Maryland’s shielding law prevents employers and schools from accessing records related to non-violent misdemeanors (i.e. marijuana and/or paraphernalia possession). Application for shielding can be filed 3 years after completion of sentence.

Research evidence
- Research suggests that marijuana may mitigate some forms of pain and serve as a potential substitute for opioid analgesics. One study, for example, found that the average annual opioid analgesic overdose rate is approximately 25 percent lower among states with medical marijuana laws compared with states without medical marijuana laws and that this relationship strengthened each year after implementation.
- Research has shown that states with more liberal marijuana policies have not seen increases in lifetime or current marijuana use among high school students.
- In the US, there has been an overall increase in marijuana consumption since 2006, however, most of this increase can be attributed to an increase in the number of people who engage in daily or near daily use, and not to an increase in the total number of users.
- While taxation may pay for the costs associated with regulation of marijuana, it is unclear whether or not legalization will result in significant economic gains or losses in the long-term.
- In order to prevent marijuana distribution to minors, Maryland lawmakers can use strategies that have been effective in reducing youth alcohol and tobacco use including: enacting excise taxes to keep prices high, regulating retail providers through frequent compliance audits accompanied with stiff penalties, requiring manufacturers to utilize child-resistant packaging similar to that of prescription drugs, and enacting partial marketing bans to prevent retailers from creating advertising campaigns targeting youth.
- There is uncertainty regarding whether or not marijuana legalization will lead to an increase or decrease in the use of alcohol, tobacco or illicit drugs such as heroin and cocaine, which would impact the costs and/or benefits of legalization. Implementers should, therefore, monitor changes in in all types of substance use as a result of marijuana legalization.

Policy recommendations
1) Legalize recreational use of marijuana for adults utilizing best practices from Uruguay and US states such as Colorado and Washington.
2) Utilize a justice reinvestment funding mechanism, which would use criminal justice-related savings from marijuana drug arrests to finance opportunities for communities most harmed by drug law enforcement.
3) Ensure communities most harmed by drug law enforcement are not systematically excluded from the legal marijuana market.

These recommendations were informed by a multi-stakeholder harm reduction meeting held at JHSPH in October 2015 and were developed by meeting participants. They do not necessarily represent the views of The Johns Hopkins University.
Implementation considerations

Despite legalization at the state level, marijuana remains a Schedule I drug under the federal Controlled Substances Act. The U.S. Department of Justice stated in 2013 that it is unlikely to aggressively enforce federal marijuana laws in states with legal markets, provided that legalization is accompanied by state-level regulatory and enforcement efforts that achieve several goals, including preventing marijuana distribution to minors.\(^\text{13}\)

Implementers will need to consider the effects of marijuana use on motor vehicle crashes. They will also need to develop threshold values for measuring intoxication while driving and methods of testing for impairment.

In order to ensure that communities most harmed by drug law enforcement are not systematically excluded from the legal marijuana market, Maryland should carefully consider any employment restrictions based on prior criminal justice involvement. Some states with legalized and/or medical marijuana bar individuals with drug possession misdemeanors or felonies in the past five to ten years from working in a dispensary. Given racial disparities in drug law enforcement, such restrictions could further harm minority communities.\(^\text{14}\)

Maryland should consider a regulatory approach similar to that of Uruguay. Uruguay requires marijuana users to register, limits the amount of marijuana a registered user can either purchase or grow, permits users to join registered cannabis clubs or cooperatives with specified numbers of members, and allows only a limited number of licensed pharmacies to produce and sell the drug. Physicians are also allowed to prescribe medical marijuana in monthly doses.\(^\text{15}\)

1. MD. CODE ANN., CRIM. LAW §5-601.1.
4. MD. CODE ANN., CRIM. PROC. §10-301(F)(8).