



Allen Gilbert, ACLU-VT, S. 241, Marijuana Legalization/Regulation, 3-31-16

The ACLU believes that citizens have a fundamental, constitutional right to control their own bodies and that it is not government's role to intervene in decisions that are properly an individual's to make. Personal liberty, privacy, and autonomy interests are important to consider when the state asserts authority to control a person's access to a substance such as marijuana.

The ACLU has long opposed laws that criminalize the cultivation, possession, use, and sale or delivery of marijuana for the following reasons:

1. They impose arbitrary, often harsh, and cruel penalties for private conduct for which criminal penalties are not appropriate.
2. They impose the hardships of an arrest, and arrest record, and often a prison term on otherwise law-abiding people.
3. They are selectively enforced.
4. Their enforcement often relies on entrapment, illegal searches, and other means that violate civil liberties.
5. They divert law enforcement money and manpower from the enforcement of laws against serious crimes.

The ACLU supports the regulation and legalization of marijuana. The exact shape of how that can happen here in Vermont depends on policy decisions you as legislators make.

As I've sat and listened to testimony and discussion in both the Senate and House on S. 241, I've come to believe there's a question that hasn't yet been fully answered. That question is, Why marijuana? Why have we treated this substance so differently from other drug substances such as alcohol and tobacco? Why have we acknowledged people should be able to have access to alcohol and tobacco products, under certain controls, but we haven't acknowledged the same for marijuana? What is it about marijuana that put it on a different trajectory?

The reason is, I believe, what might be called "marginalization." Marijuana (along with certain other drugs) became associated with marginalized populations, such as African-Americans and Hispanics. And that made it OK to demonize.

In 2013 the National ACLU issued a report, based on FBI statistics, concerning the arrest rate of African-Americans vs. Caucasian-Americans for marijuana possession. Statistics were broken down by state and county. In Vermont, a black person was four times more likely to be arrested for having marijuana than a white person. Rutland County was found to have the highest disparity – a black person there was 16 times more likely to be arrested for marijuana possession than a white person.

Gov. Shumlin was correct when, in his state-of-the-state address in January, he said, “The outdated War on Drugs has failed, and there is no greater example than our nation’s marijuana laws.”

The real question before you is not whether to legalize marijuana but how best to regulate it. Marijuana is already being grown, sold, possessed and used in the state – by up to an estimated 80,000 Vermonters.

The ACLU hopes that the legislature will accept the governor’s invitation to work together to “craft the right bill that thoughtfully and carefully eliminates the era of prohibition that is currently failing us so miserably.”

The thoughtful consideration you and others have given during hours of testimony suggests you can craft “the right bill.” Please help in turning around a failure.