



HOUSE OF REPRESENTATIVES

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May 8, 2023

Testimony of Representative David Boyer

Presenting L.D. 1103, An Act to Allow Persons Who Lawfully Use or Possess Cannabis to Own or Possess Firearms or Ammunition

Before the Joint Select Committee on Criminal Justice and Public Safety

Senator Beebe-Center, Representative Salisbury and distinguished members of the Committee on Criminal Justice and Public Safety, my name is Representative David Boyer and I am proud to present L.D. 1103, An Act to Allow Persons Who Lawfully Use or Possess Cannabis to Own or Possess Firearms or Ammunition.

As you may know, medical and adult-use cannabis patients and consumers are barred from possessing a firearm because cannabis is a Schedule 1 substance under the Controlled Substances Act. Schedule 1 substances are defined as a substance that has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Given alcohol is not a Schedule 1 substance, cannabis shouldn't be either. That's why advocates recommend de-scheduling cannabis rather than re-scheduling it.

Recent polling shows that over half of Americans have tried cannabis and 43% have used in the last year. Mainers and Americans should not be prohibited from a Constitutional right simply for using cannabis. Given that cannabis is safer than alcohol and, less toxic and addictive, and does have therapeutic benefits, this prohibition makes zero sense.

I've attached a news article from Marijuana Moment that gives a good summary of the legal history on this issue. It also highlights recent court decisions that have found this prohibition to be unconstitutional.

District 87 Mechanic Falls and Poland (part)

The U.S. District Court for the Western District of Oklahoma dismissed an indictment against a man who was charged in 2022 after police discovered cannabis and a handgun in his vehicle during a traffic stop. Judge Wyrick agreed with the defense, ruling the statute banning “unlawful” users of cannabis from possessing firearms violates the Second Amendment of the Constitution.

Wyrick said that while the government can protect the public from dangerous people possessing guns, it could not argue Jared Harrison's "mere status as a user of marijuana justifies stripping him of his fundamental right to possess a firearm."

He said using marijuana was "not in and of itself a violent, forceful, or threatening act," and noted that Oklahoma is one of a number of states where the drug, still illegal under federal law, can be legally bought for medical uses.

"The mere use of marijuana carries none of the characteristics that the Nation's history and tradition of firearms regulation supports," Wyrick wrote.

My legislation would remove this prohibition at the state level under Section 393 in Title 15. Additionally, it would prohibit municipal or state officials from assisting with federal agencies or federal officials with locating, apprehending, arresting or charging a person alleged to have violated the Controlled Substances Act regarding cannabis and firearms.

Since submitting the bill, I had a good conversation with Sgt. Tyler Stevenson from the Maine State Police. To be clear, this legislation should not and would not prevent law enforcement from going after other crimes even if cannabis is present. If a legal analysis of my bill suggests anything otherwise than what is proposed, I'd be happy to amend the language.

Through the conversation with Sgt. Stevenson, we thought perhaps we should add the word “solely” before “person possesses or uses cannabis...” so that it is crystal clear. Additionally, perhaps language could be added to prohibit unlawful possession of a firearm by a cannabis user from being the most severe charge, if there are multiple charges. It would be wrong for someone who committed a misdemeanor to now face a felony simply because they are an otherwise lawful gun owner.

I appreciate the committee's time and consideration of this issue. Thank you.