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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

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SEC. 2. DE-SCHEDULING MARIHUANA.

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

(1) by striking “marihuana”; and

(2) by striking “tetrahydrocannabinols”.

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

(1) in paragraph (1)—

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

(B) by striking subparagraph (G); and

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

(2) in paragraph (2)—

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

(B) by striking subparagraph (G); and

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

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

(4) by striking paragraph (4); and
(5) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

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

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

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

(A) in paragraph (1)—

(i) in subparagraph (A)—

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

(II) by striking (vii); and

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

(ii) in subparagraph (B)—

(I) by striking clause (vii); and

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

(iii) in subparagraph (C), in the first sentence, by striking “subparagraphs (A), (B), and (D)” and inserting “subparagraphs (A) and (B)”;

(iv) by striking subparagraph (D);
(v) by redesignating subparagraph (E) as subparagraph (D); and

(vi) in subparagraph (D)(i), as so redesignated, by striking “subparagraphs (C) and (D)” and inserting “subparagraph (C)”;

(B) by striking paragraph (4); and

(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

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

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

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

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

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

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

(B) in paragraph (5), by striking “, such as a marihuana cigarette,”; and
(8) in section 516(d) (21 U.S.C. 886(d)), by striking “section 401(b)(6)” each place the term appears and inserting “section 401(b)(5)”.

(d) OTHER CONFORMING AMENDMENTS.—

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

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

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

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

(2) INTERCEPTION OF COMMUNICATIONS.—Section 2516 of title 18, United States Code, is amended—

(A) in subsection (1)(e), by striking “marihuana,”; and

(B) in subsection (2) by striking “marihuana,”.

SEC. 3. INELIGIBILITY FOR CERTAIN FUNDS.

(a) DEFINITIONS.—In this section—
(1) the term “covered State” means a State that has not enacted a statute legalizing marijuana in the State;

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

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

(B) the percentage of low-income individuals arrested for a marijuana offense in a State is higher than the percentage of the population of the State that are not low-income individuals, as determined by the most recent census data;

(3) the term “disproportionate incarceration rate” means the percentage of minority individuals incarcerated for a marijuana related offense in a State is higher than the percentage of the non-minority individual population of the State, as determined by the most recent census data;

(4) the term “low-income individual” means an individual whose taxable income (as defined in section 63 of the Internal Revenue Code of 1986) is
equal to or below the maximum dollar amount for
the 15 percent rate bracket applicable to the indi-
vidual under section 1 of the Internal Revenue Code
of 1986;

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

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

(b) INELIGIBILITY FOR CERTAIN FUNDS.—

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

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

(B) shall be subject to not more than a 10-
percent reduction of the funds that would oth-
erwise be allocated for that fiscal year to the
covered State under subpart 1 of part E of title
I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.), whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Local Government Law Enforcement Block Grants Program, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(2) Funds for certain programming.—For purposes of paragraph (1)(A), Federal funds for the construction or staffing of a prison or jail shall not include Federal funds used by a prison or jail to carry out recidivism reduction programming or drug addiction treatment.

(3) Reallocation.—Any amounts not awarded to a covered State because of a determination under paragraph (1) shall be deposited in the Community Reinvestment Fund established under section 4.

(e) Expungement of Marijuana Offense Convictions.—Each Federal court shall issue an order expunging each conviction for a marijuana use or possession offense entered by the court before the date of enactment of this Act.

(d) Sentencing Review.—
(1) IN GENERAL.—For any individual who was sentenced to a term of imprisonment for a Federal criminal offense involving marijuana before the date of enactment of this Act and is still serving such term of imprisonment, the court that imposed the sentence, shall, on motion of the individual, the Director of the Bureau of Prisons, the attorney for the Government, or the court, conduct a sentencing hearing.

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

(c) RIGHT OF ACTION.—

(1) IN GENERAL.—An individual who is aggrieved by a disproportionate arrest rate or a disproportionate incarceration rate of a State may bring a civil action in an appropriate district court of the United States.

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

(A) grant all necessary equitable and legal relief, including declaratory relief; and
(B) issue an order requiring the Attorney General, acting through the Director of the Bureau of Justice Assistance, to—

(i) declare the State to be ineligible to receive any Federal funds for the construction or staffing of a prison or jail in accordance with subsection (b)(1)(A); and

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

SEC. 4. COMMUNITY REINVESTMENT FUND.

(a) Establishment.—There is established in the Treasury of the United States a fund, to be known as the “Community Reinvestment Fund” (referred to in this section as the “Fund”).

(b) Deposits.—The Fund shall consist of—

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

(2) any amounts otherwise appropriated to the Fund.

(c) Use of Fund Amounts.—Amounts in the Fund shall be available to the Secretary of Housing and Urban Development to establish a grant program to reinvest in communities most affected by the war on drugs, which
shall include providing grants to impacted communities for programs such as—

(1) job training;
(2) reentry services;
(3) expenses related to the expungement of convictions;
(4) public libraries;
(5) community centers;
(6) programs and opportunities dedicated to youth;
(7) the special purpose fund discussed below;
and
(8) health education programs.

(d) Availability of Fund Amounts.—Amounts in the Fund shall be available without fiscal year limitation.

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Fund $500,000,000 for each of fiscal years 2018 through 2040.