115TH CONGRESS
1ST SESSION

S. 1689

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 SENATE OF THE UNITED STATES

AUGUST 1, 2017

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 2017”.

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 Export.—Section 1010(b) of the Controlled Substances Import 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(c)(2)(B) (21 U.S.C. 842(c)(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.—Sec-

tion 2516 of title 18, United States Code, is amend-
ed—

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

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

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 individual 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 individual who is a member of a racial or ethnic minority group.

(b) INELIGIBILITY FOR CERTAIN FUNDS.—

(1) IN GENERAL.—For any fiscal year beginning 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 Federal 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 otherwise 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 award-
ed to a covered State because of a determination
under paragraph (1) shall be deposited in the Com-
munity Reinvestment Fund established under section
4.

(e) Expungement of marijuana offense con-
victions.—Each Federal court shall issue an order
expunging each conviction for a marijuana use or posses-
sion offense entered by the court before the date of enact-
ment 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 Di-
rector 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.

(e) RIGHT OF ACTION.—

(1) IN GENERAL.—An individual who is ag-
grieved by a disproportionate arrest rate or a dis-
proportionate 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 Bu-
reau 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.