

Wisconsin Policy Forum: Proposal to decriminalize marijuana would make Wisconsin unique

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Bill Would Remove Civil as Well as Criminal Penalties for Small Amounts

MILWAUKEE – A proposal by Gov. Tony Evers to decriminalize possessing small amounts of marijuana would go further than similar legislation in other states by eliminating both civil and criminal penalties, according to the latest issue of The Wisconsin Taxpayer from the independent, nonpartisan Wisconsin Policy Forum (WPF).

The 13 other states that have removed criminal penalties for possession of small amounts of marijuana (without legalizing adult recreational use) have all retained civil fines that generally range from \$50 to \$300, the report finds. Under the governor's proposed budget, Wisconsin would not impose a penalty of any kind on adults possessing less than 25 grams, or just under one ounce.

At the same time, the proposal here would not go as far as the 10 states that have legalized adult recreational use of marijuana and created a licensed market serving the general public. Instead, the budget bill would make Wisconsin the 34th state to legalize marijuana for treating patients with certain medical conditions such as glaucoma and post-traumatic stress disorder.

The debate over the state's marijuana laws has become increasingly relevant and timely. Wisconsin is now almost surrounded by states that have legalized medical or

recreational marijuana, raising potential issues such as impaired driving and economic impacts as more state residents access legal markets for the drug in neighboring states.

“No matter one’s personal views on the subject, this is a policy discussion the state’s elected leaders can no longer avoid,” the report reads.

State leaders and residents also face a patchwork of different municipal ordinances and penalties for first-time marijuana possession, which can range from a minimum of as little as \$1 in Eau Claire and Racine to \$500 in Green Bay. The state has given municipalities the flexibility to determine penalties for small-scale marijuana infractions but in doing so may be creating confusion and inequities, the report notes.

Under the Evers proposal, sales of medical marijuana would be subject to sales taxes and a 10% surcharge, and dispensaries and patients also would pay license fees. Combined, these taxes and fees would generate an estimated \$2.4 million in tax and fee revenue for the state over the next two years.

The study finds that, unlike some other states, Wisconsin would not require or prohibit vertical integration between marijuana growers and sellers, allowing the businesses to decide whether to handle the entire process from seed to sale. Dispensary applicants would have to be state residents for at least two years and sell only marijuana grown in Wisconsin.

The Wisconsin proposal could have significant impacts for the criminal justice system as well as racial equity. The report notes prison admission statistics from the Department of Corrections show higher rates of admission for black offenders than white offenders for marijuana-related offenses, despite similar rates of use. However, those statistics also indicate that only small numbers of individuals serve prison time for charges that just involve marijuana.

Whatever choice state leaders make, the report notes federal law continues to prohibit marijuana use and to assign the drug to Schedule I, the most serious classification. That has a number of implications for a potential marijuana market in the state, including making it difficult for banks to handle money from businesses engaged in the trade. Further complicating matters, last year former U.S. Attorney General Jeff Sessions also rescinded an earlier Department of Justice memo limiting federal involvement in marijuana enforcement.

The apparent conflict between federal and state laws “creates an uncertain environment for states with medical or legal marijuana programs, dispensaries and other marijuana-related businesses, and patients and consumers,” the report states.