

Assembly Oversight, Reform, and Federal Relations Committee
New Jersey State Legislature
May 12, 2018



Dear Members of the Committee:

My name is Cristina Buccola, I am an attorney licensed in New Jersey, New York, Massachusetts, Oregon, and Illinois (retired). The short version of how I'm sitting before you today is that in 2013 I started to investigate cannabis as a modality to treat my dad's Parkinson's Disease. This exploration led me down a path on which I served as the General Counsel of High Times and was a partner in a cannabis cultivation operation in the Pacific Northwest. I now run my own cannabis-focused law practice and about half of my practice is dedicated to advocacy work. In my advocacy work I am fortunate enough to be associated with the New Jersey Cannabis Industry Association and applaud their dedication to the development of a sensible, responsible, legal cannabis industry in New Jersey.

Over the past few months this Committee has been presented with ample information about the economic boon that a legal adult-use cannabis program will bring to New Jersey, with particular attention having been paid to the taxation revenue that will fill New Jersey's coffers. I'm here today to discuss another aspect of enrichment to New Jersey's economy, with a focus on how adult-use cannabis legislation that decriminalizes non-violent cannabis offenses and expunges records for those offenses will impart economic benefits to a great number of New Jerseyans. These aims of decriminalization and expungement must be central to New Jersey's adult-use cannabis program: New Jerseyans cannot continue to be haunted by an activity that is no longer considered criminal, particularly as it relates to their future employment.

New Jersey understands the importance of having individuals with criminal records reenter the work force and that employment reduces the risk of recidivism. To that end, the Legislature passed its version of "Ban the Box"¹ in 2014, which prevents a New Jersey employer from inquiring about an applicant's criminal past before an initial interview.² After this interview is conducted, the law allows an employer to run a background check and the information such check yields may negatively impact the employer's hiring decision. But when an applicant's criminal record is expunged either (i) the record will not appear in a background check or (ii) such record will be designated as "Dismissed Pursuant PC 1203.4," thereby indicating expungement. In the event that a background check shows an expunged criminal record, New Jersey

law prohibits an employer from using that expunged record in making its hiring decision.

By expunging non-violent cannabis offenses, New Jersey opens up employment opportunities for thousands of New Jerseyans who might otherwise be penalized for behavior that becomes State-sanctioned under an adult-use cannabis program. Without record expungement, these New Jerseyans may continue to find themselves shut out of employment after an initial interview time and time again.

As this Committee and other members of the Legislature continue to develop their thoughts about a regulated adult-use cannabis program, I urge you to consider economic impacts beyond taxation. Individual New Jerseyans will also be enriched by cannabis legislation that levels the playing field, and one part of this equalization is the decriminalization and expungement of non-violent cannabis offenses.

¹The Opportunity to Compete Act, P.L. 2014, c. 32 (codified at N.J.S.A. 34:6B-11 to -19). The success of Ban the Box policies have been critiqued as leading employers to engage in statistical discrimination on the basis of race, which is beyond the scope of my testimony today. See Doleac, Jennifer L. and Benjamin Hansen, Does "Ban the Box" Help or Hurt Low-Skilled Workers? Statistical Discrimination and Employment Outcomes When Criminal Histories are Hidden (July 2016) Working Paper No. 22469. See also Agan, Amanda Y. and Starr, Sonja B., Ban the Box, Criminal Records, and Statistical Discrimination: A Field Experiment (June 14, 2016). U of Michigan Law & Econ Research Paper No. 16-012.

² The applies to employers with 15 or more employees for over 20 calendar weeks. There are exceptions to NJ's Ban the Box law: potential employers may ask about criminal histories as a preliminary matter when (i) the employment is in law enforcement, corrections, the judiciary, homeland security, or emergency management, (ii) a law, rule, or regulation requires that a background check be executed in connection with the position, (iii) a law, rule or regulation prevents the applicant's employment on account of an arrest/conviction, (iv) a law, rule, or regulation prevents an employers from engaging in their specified business activities based on the criminal records of employees, or (v) the employment is related to a program designed to encourage the participation of those with a criminal record.