



Austin City Council  
Austin City Hall  
301 W. Second Street  
Austin, TX 78701

*Re: Agenda Item 59 - limiting enforcement of low-level possession of marijuana (PoM)*

Dear Mayor and Council Members,

My name is Jax Finkel. I am a Texas native and resident of District 6. I am here in my capacity as the Executive Director for Texas NORML, the Austin Chapter of the National Organization for the Reform of Marijuana Laws. Texas NORML focuses on working to change the damaging policies related to the criminalization of marijuana (scientific name *cannabis sativa* L). We are actively engaged at the Capitol during legislative session and here locally, working to reduce the collateral harms caused by Texas' restrictive policies surrounding Cannabis. I am here as a subject matter expert to give local, state and national context on why this resolution is important.

The cannabis plant is comprised of dozens of cannabinoids, including tetrahydrocannabinol (THC) and cannabidiol (CBD). Hemp is defined as cannabis with only trace amounts of THC (less than .3%).

At the federal level, Hemp was removed from the Controlled Substances Act (CSA) in December 2018. Texas was then bound to amend the Texas schedule of controlled substances to remove hemp from the list.<sup>1</sup> This created pressure for the Texas Legislature to create a hemp program and statutes surrounding it. The bill passed unanimously out of both chambers and was signed by the Governor on June 10, 2019.

Since THC is not responsible for the smell of cannabis, there is no way to tell by sight or smell if it is legal cannabis (hemp) or illegal cannabis (marijuana). The Texas District and County Attorneys Association has given instruction clarifying that the burden of proof is on the prosecution and testing is required for convictions.<sup>2</sup>

At the local levels, many jurisdictions are doing the most they can within the discretion of their offices. In Houston, we see that DA Ogg instituted diversion and first chance programs that saved their city \$27million in the first year.

<sup>3</sup> In the DFW area, hundreds of cases have been dropped and further prosecution is not being pursued.<sup>4</sup>

Many urban areas are deciding to simply no longer arrest for the charges, since the DAs are not going forward with prosecution. Agencies like the Travis County Sheriff and the Round Rock Police Department stopped enforcing low-level marijuana offenses.<sup>5</sup> District Attorney Moore and County Attorney Escamilla are not prosecuting PoM cases without THC testing results, which are expensive and only a limited number of crime labs are accredited to test to the tenth of a percent.<sup>6</sup> Despite this, our understanding is that the Austin Police Department (APD) has continued to cite and even arrest people for PoM – even though they know the cases will be automatically rejected.

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<sup>1</sup> Texas Register 1467, March 15, 2019 44

<sup>2</sup> TDCAAA - <https://www.tdcaa.com/legislative/interm-update-hemp/>

<sup>3</sup> Harris County DA Office New Release - <https://app.dao.hctx.net/marijuana-program-news-release>

<sup>4</sup> DFW CBS Affiliate - <https://dfw.cbslocal.com/2019/06/28/tarrant-county-da-dismissed-marijuana-possession-cases/>

<sup>5</sup> Austin American Statesman - <https://www.statesman.com/news/20190716/williamson-county-dropping-marijuana-cases-under-texas-hemp-law>

<sup>6</sup> Austin Chronicle - <https://www.austinchronicle.com/daily/news/2019-07-03/travis-county-to-reject-marijuana-prosecutions/>



At the state level, over 86% of Texans support changing our marijuana laws from the status quo.<sup>7</sup> <sup>8</sup> There were 63 bills filed during the 86th Legislative Session that dealt with the cannabis plant. One of the bills, authored by a former prosecutor, would have changed possession of 1 ounce on marijuana to a simple civil fine. This bill had enormous support and passed out of the House of Representative with a bipartisan super majority. However, the Lt Gov single handedly decided to prevent the bill from advancing by not referring this extremely popular legislation to a committee. If the Lt Gov had done the right thing and let this bill pass, our state would no longer be subject to the patchwork of policies we see across the state.

The laws, regulations and opinions surrounding this plant are changing. Federally, the MORE Act<sup>9</sup>, which would remove cannabis from the CSA and incentivize expunging old records, and the SAFE Banking Act<sup>10</sup>, which would allow state-licensed marijuana-related businesses to engage freely in relationships with banks and other financial institutions, have both been making their way through the legislature. In Texas, the Texas Department of Banking (TDB) has given instructions to financial institutions regarding hemp businesses.<sup>11</sup> The Texas Department of Agriculture (TDA)<sup>12</sup> and the Department of State Health Services (DSHS)<sup>13</sup> are working quickly to move forward regulations on the hemp program and human consumable hemp products program. TDA's program plan is currently under review by the U.S. Department of Agriculture (USDA). Once these are approved, licensing of farmers, manufacturers and retail sellers will begin. These programs are important to businesses in Texas. The landscape is changing quickly, which means that it is important that we bring further clarity to the citizens of Austin.

It is of note that in America, hemp is legal in all 50 states, 33 states have access to safe and legal cannabis to treat their medical conditions, over two dozen states have decriminalized the possession of this plant and eleven states have legal adult use markets. Austin is a hub of many events, festivals, conferences and more. Many people from all across our country visit here. Almost none of them realize how harsh our laws are in Texas and that they can get jail time for possession of their medicine. Austin should be doing the absolute most we can within our discretion to prevent these arrests. Item 59 would prevent Austin taxpayer funds from being wasted on enforcing this failed policy and refocus the funds where they belong, protecting our city from violent and property crimes.

I want to thank the council members sponsoring this resolution, including my own CouncilMember, Jimmy Flanigan. I hope that you all will support this resolution.

Thank you,  
Jax Finkel  
Executive Director, Texas NORML  
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<sup>7</sup> UT/TT Poll, June 2018 - <https://www.texastribune.org/2018/06/27/marijuana-democrats-young-adults-texas-poll/>

<sup>8</sup> Emerson Poll, April 2019 - <http://emersonpolling.com/2019/04/28/2020-texas-biden-and-beto-in-dead-heat-in-democratic-primary/>

<sup>9</sup> <https://www.congress.gov/bill/116th-congress/house-bill/3884/text>

<sup>10</sup> <https://www.congress.gov/bill/116th-congress/house-bill/1595>

<sup>11</sup> Texas Department of Banking, INdustry Notice 2019-01 -

<https://www.informedtexas.org/wp-content/uploads/2019/08/7-29-19-Texas-Department-of-Banking.pdf>

<sup>12</sup> <https://www.texasagriculture.gov/RegulatoryPrograms/Hemp.aspx>

<sup>13</sup> <https://www.dshs.texas.gov/consumerprotection/hemp-program/default.aspx>