

GOVERNOR'S VETO MESSAGE

February 4, 2022

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 440** in its entirety.

This bill would create a separate penalty for manufacturing marijuana or separating resin from marijuana by butane extraction or a similar method and would create a graduated penalty structure for marijuana possession if the form is a resin produced through butane extraction.

I am vetoing this bill in its entirety because I object to creating additional criminal offenses or penalties related to marijuana use.

In recent years, we have seen state after state reform marijuana prohibitions, from decriminalization to legalizing medical marijuana to legalizing recreational use. According to a 2019 Marquette Law School poll, nearly 60 percent of Wisconsinites believe the time has come for us to legalize recreational marijuana. I agree with them, and my 2021-23 budget proposed to do just that. Additionally, I proposed using a part of the expected revenue from marijuana legalization for a community reinvestment fund to support programs to invest in the communities that have too often borne the cost of marijuana criminalization.

It is widely accepted, and, indeed, research over the course of the last decade confirms, that marijuana criminalization has had a disproportionate impact on communities of color, especially in Wisconsin where we have longstanding racial disparities in incarceration rates. For example, according to a report released by the American Civil Liberties Union in 2020, Wisconsin ranks among the worst in the country for racial disparities in arrests for marijuana possession. Similarly, while national arrest rates for marijuana possession overall have declined over the last decade, Wisconsin has trended in the opposite direction, with marijuana possession arrests increasing more than 12 percent from 2010 to 2018. Moreover, that same study showed Black people are 4.2 times more likely to be arrested in Wisconsin for marijuana possession than their white counterparts despite comparable national rates of use.

Marijuana possession and manufacturing/delivery, regardless of the form, is currently illegal in Wisconsin. The bill would create a new sentencing disparity for marijuana resin. Under the bill, a second or subsequent offense of possessing or attempting to possess resin would have escalating penalties depending on the amount involved. If it involves more

than 50 grams, about 1.76 ounces, it would be a Class E felony. But under current law, a similar repeat offense for tetrahydrocannabinols—regardless of the amount—is a Class I felony. This bill represents a continuation of past policies and paradigms we know have had detrimental effects on people, families, and communities across our state while also creating a new sentencing disparity for marijuana resin.

States across our country—both Democrat and Republican-controlled alike—have and are taking meaningful steps to address increased incarceration rates and reduce racial disparities by investing in substance use treatment, community reentry programming, alternatives to incarceration, rehabilitation, and other data-driven, evidence-based practices we know are essential solutions to reforming our justice system. The data and the science are clear on this issue, and I welcome the Legislature to start having meaningful conversations around justice reform in Wisconsin.

As former Governor Tommy Thompson has said in recent years, “I’ve also come to believe that our corrections system and incarceration practices are both financially unsustainable and provide questionable outcomes worthy of strenuous review.” I agree. And this bill would simply be another step in the wrong direction.

Respectfully submitted,
TONY EVERS
Governor