

HOUSE BILL 1071

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3lr2893

By: Delegates Crutchfield, Acevero, Addison, Alston, Amprey, D. Barnes, Bartlett, Boaf, Boyce, Bridges, Charles, Conaway, Davis, Fennell, Harris, Harrison, Henson, Hill, Holmes, Ivey, Jackson, A. Johnson, R. Lewis, J. Long, McCaskill, Mireku-North, Pasteur, Patterson, Pena-Melnyk, Phillips, Queen, Rogers, Simmons, Smith, Taveras, Taylor, Toles, Turner, Wells, White, Wilkins, Williams, Woods, and Young

Introduced and read first time: February 10, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Reasonable Suspicion and Probable Cause – Cannabis**

3 FOR the purpose of providing that a finding or determination of reasonable suspicion or
4 probable cause relating to possession of contraband or other criminal activity may
5 not be based solely on evidence of the odor of certain cannabis, the possession of or
6 suspicion of possession of cannabis, or the presence of money in proximity to
7 cannabis; providing that, subject to a certain limitation, the odor of certain cannabis
8 or the possession of or suspicion of possession of cannabis may be factors in the
9 totality of the circumstances leading to reasonable articulable suspicion to justify a
10 certain investigation or probable cause to justify a certain arrest or search; providing
11 that evidence obtained in violation of this Act is not admissible in certain
12 proceedings; and generally relating to reasonable suspicion and probable cause.

13 BY adding to
14 Article – Criminal Procedure
15 Section 1–211
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2022 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Criminal Procedure**

21 **1–211.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(A) A FINDING OR DETERMINATION OF REASONABLE SUSPICION OR PROBABLE CAUSE RELATING TO POSSESSION OF CONTRABAND OR OTHER CRIMINAL ACTIVITY MAY NOT BE BASED SOLELY ON EVIDENCE OF:

(1) THE ODOR OF RAW OR BURNT CANNABIS;

(2) THE POSSESSION OF OR SUSPICION OF POSSESSION OF CANNABIS;
OR

(3) THE PRESENCE OF MONEY IN PROXIMITY TO CANNABIS.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE ODOR OF RAW OR BURNT CANNABIS OR THE POSSESSION OF OR SUSPICION OF POSSESSION OF CANNABIS MAY BE FACTORS IN THE TOTALITY OF THE CIRCUMSTANCES LEADING TO:

(I) REASONABLE ARTICULABLE SUSPICION TO JUSTIFY AN INVESTIGATION OF WHETHER A PERSON IS DRIVING, OPERATING, OR CONTROLLING A MOTOR VEHICLE OR VESSEL WHILE IMPAIRED BY DRUGS; OR

(II) PROBABLE CAUSE TO JUSTIFY AN ARREST OF A PERSON OR THE SEARCH OF A VEHICLE OR VESSEL BASED ON A PERSON DRIVING, OPERATING, OR CONTROLLING A MOTOR VEHICLE OR VESSEL WHILE IMPAIRED BY DRUGS.

(2) A SEARCH UNDER THIS SUBSECTION SHALL BE LIMITED TO AN AREA OF A VEHICLE OR VESSEL THAT IS:

(I) READILY ACCESSIBLE TO THE DRIVER OR OPERATOR; OR

(II) REASONABLY LIKELY TO CONTAIN EVIDENCE RELEVANT TO THE CONDITION OF THE DRIVER OR OPERATOR.

(C) EVIDENCE DISCOVERED OR OBTAINED IN VIOLATION OF THIS SECTION, INCLUDING EVIDENCE DISCOVERED OR OBTAINED WITH CONSENT, IS NOT ADMISSIBLE IN A TRIAL, A HEARING, OR ANY OTHER PROCEEDING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.