

JAN 29 2015

A BILL FOR AN ACT

RELATING TO MARIJUANA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that certain state
2 policies should be revised in response to our current economic
3 climate. One of these policies relates to criminal offenses
4 that prohibit the possession of marijuana. The legislature
5 further finds that the costs to enforce criminal marijuana
6 possession statutes are substantial. According to a report
7 entitled *The Budgetary Implications of Marijuana*
8 *Decriminalization and Legalization for Hawai'i*, which was
9 completed in December of 2012 by David C. Nixon, an economist
10 from the University of Hawaii, state and county law enforcement
11 agencies spent \$9,300,000 in 2011 to enforce marijuana
12 possession laws. Meanwhile, a recent scientific survey of
13 registered voters in the State conducted by Qmark Research in
14 2014 found that 63 per cent of those surveyed favored making
15 possession and personal use of marijuana a civil violation
16 instead of a crime, and 60 per cent favored outright
17 legalization of marijuana. The decriminalization study



1 indicates that less than 2 per cent of all arrests in Hawaii
2 between the years of 1997 and 2004 were for marijuana
3 possession. Furthermore, of the misdemeanor marijuana drug
4 cases brought in district court, approximately 65 per cent are
5 dismissed, stricken, or not prosecuted. A relatively small
6 proportion, approximately 25 per cent, result in convictions.
7 As the decriminalization study concludes: "Few [of those
8 arrested for marijuana possession] are actually prosecuted under
9 the law, fewer convicted, and virtually none serve jail time.
10 Of those convicted, probation is the usual sentence for first
11 time offenders." Clearly, although the cost to enforce
12 marijuana possession laws is substantial, the resulting
13 conviction rate is low.

14 The legislature finds that the low conviction and arrest
15 rates do not act as a deterrent to marijuana users. The
16 decriminalization study compared the findings of a study
17 surveying the number of households engaged in the regular use of
18 marijuana with actual arrest rates. The results of this
19 comparison indicate that the risk of arrest is between 1.54 per
20 cent and 2.16 per cent in any given year for members of
21 households in which there is regular marijuana use. According



1 to the decriminalization study, the chance of a marijuana user
2 being arrested and convicted is approximately 0.4 per cent. It
3 is clear that the arrest and conviction risks associated with
4 marijuana use do not act as a deterrent to marijuana use, and
5 few of those who use marijuana on a regular basis experience the
6 consequences of these risks, notwithstanding the costs to
7 enforce the criminal statutes prohibiting such conduct.

8 Some states have passed laws decriminalizing marijuana.
9 Typically, decriminalization means no prison time or criminal
10 record for first-time possession of a small amount for personal
11 consumption. The conduct is treated like a minor traffic
12 violation. According to the National Organization for the
13 Reform of Marijuana Laws, the following states have
14 decriminalized possession of a small amount for personal
15 consumption: Alaska, California, Connecticut, District of
16 Columbia, Maine, Maryland, Massachusetts, Minnesota,
17 Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio,
18 Oregon, Rhode Island, and Vermont. Colorado and Washington have
19 legalized the recreational use of cannabis, and Oregon, Alaska,
20 and Washington, D.C. voters have approved the legalization of
21 recreational marijuana use.



1 According to a report prepared by the Connecticut Law
2 Revision Commission for the Judiciary Committee of the
3 Connecticut General Assembly, studies of states that have
4 reduced penalties for possession of small amounts of marijuana
5 have found that:

6 (1) Expenses for arrests and prosecution of marijuana
7 possession offenses were significantly reduced;

8 (2) If marijuana use increased, it increased less in
9 states with reduced penalties when compared to states
10 that did not reduce their penalties, and "the largest
11 proportionate increase occurred in those states with
12 the most severe penalties"; and

13 (3) Reducing the penalties for marijuana possession has
14 virtually no effect on either the choice or frequency
15 of use of alcohol or illegal "harder" drugs such as
16 cocaine.

17 In Hawaii county, a voter initiative was passed in 2008 by
18 a majority of 35,000 voters that directs county law enforcement
19 officials to treat the "adult personal use" of marijuana as its
20 lowest law enforcement priority and prohibits the county from
21 accepting or expending funds for the marijuana eradication



1 program and for enforcing potential offenses for the adult
2 personal use of marijuana.

3 The legislature further finds that the costs associated
4 with criminal prosecution for possession of marijuana are
5 extremely high in relation to the benefits of prosecuting those
6 offenses. Authorizing the counties to legalize marijuana would
7 greatly reduce the costs for prosecution and enforcement and
8 generate tax revenue.

9 The purpose of this Act is to authorize the counties to
10 adopt ordinances to legalize marijuana possession, sale, and
11 use, for persons over the age of twenty-one.

12 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
13 by adding a new section to be appropriately designated and to
14 read as follows:

15 **"§46- Legalization of marijuana. (a) Notwithstanding**
16 any law to the contrary, any county may adopt an ordinance,
17 excluding referendums and initiatives, to legalize marijuana
18 cultivation, possession, sale, transfer, and use within its
19 geographical boundaries by any person over the age of twenty-one
20 years, whether for personal, commercial, or medicinal purposes.



1 (b) An ordinance adopted in accordance with subsection (a)
2 shall:

3 (1) Supercede statutes prohibiting the cultivation,
4 possession, sale, transfer, and use of marijuana,
5 including part IX of chapter 329 and part IV of
6 chapter 712; and

7 (2) Not be recognized in any county that has not adopted
8 the same or similar ordinance.

9 (c) A county that adopts an ordinance under this section
10 shall adopt administrative rules pursuant to chapter 91 to
11 regulate the cultivation, possession, sale, transfer, and use of
12 marijuana. An ordinance shall not become effective until the
13 rules are adopted."

14 SECTION 3. Chapter 712, Hawaii Revised Statutes, is
15 amended by adding a new section to part IV to be appropriately
16 designated and to read as follows:

17 **"§712- County legalization of marijuana.** (a) A person
18 who cultivates, possesses, sells, transfers, or uses marijuana
19 in any amount shall not be deemed in violation of this part in
20 any county that has adopted an ordinance and administrative
21 rules pursuant to section 46- .



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1 (b) This part shall not be enforceable in a county that
2 has adopted an ordinance and rules pursuant to section 46- ."

3 SECTION 4. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before the effective date of county ordinances adopted
6 pursuant to this Act and administrative rules adopted thereto.

7 SECTION 5. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY: *Russell E. Ruden*



S.B. NO. 1259

Report Title:

Marijuana; County Authorization to Legalize

Description:

Authorizes the counties to adopt ordinances to legalize marijuana possession, sale, and use, for persons over the age of twenty-one. Clarifies that penal code provisions pertaining to drug and intoxicating compounds offenses do not apply to counties that have adopted ordinances legalizing marijuana and adopted administrative rules to regulate marijuana.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

