

JAN 19 2018

A BILL FOR AN ACT

RELATING TO CANNABIS.

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 cannabis. The legislature
5 further finds that the costs to enforce criminal cannabis
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 2005 by Lawrence W. Boyd and a 2013 update of that
10 report, *Update to: Budgetary Implications of Marijuana*
11 *Decriminalization and Legislation in Hawai'i*, completed in 2013
12 by David C. Nixon, state and county law enforcement agencies
13 spent \$9,300,000 annually, in 2011 dollars, to enforce cannabis
14 possession laws. Meanwhile, a recent scientific survey of
15 registered voters in the State conducted by Qmark Research in
16 2014 found that sixty-three per cent of those surveyed favored
17 making possession and personal use of cannabis a civil violation



1 instead of a crime, and sixty per cent favored outright
2 legalization of cannabis. The 2013 decriminalization study
3 update indicates that about 2.5 per cent of all arrests in
4 Hawaii in 2010 were for cannabis possession. Furthermore, the
5 2012 study indicates that of the misdemeanor cannabis drug cases
6 brought in district court, approximately sixty-five per cent are
7 dismissed, stricken, or not prosecuted. A relatively small
8 proportion, approximately twenty-five per cent, result in
9 convictions. As the decriminalization study concludes: "Few
10 [of those arrested for cannabis possession] are actually
11 prosecuted under the law, fewer convicted, and virtually none
12 serve jail time. Of those convicted, probation is the usual
13 sentence for first time offenders." Clearly, although the cost
14 to enforce cannabis possession laws is substantial, the
15 resulting conviction rate is low.

16 The legislature finds that the low conviction and arrest
17 rates do not act as a deterrent to cannabis users. The
18 decriminalization study compared the findings of a study
19 surveying the number of households engaged in the regular use of
20 cannabis with actual arrest rates. The results of this
21 comparison indicate that the risk of arrest is between 1.54 per



1 cent and 2.16 per cent in any given year for members of
2 households in which there is regular cannabis use. According to
3 the decriminalization study, the chance of a cannabis user being
4 arrested and convicted is approximately 0.4 per cent. It is
5 clear that the arrest and conviction risks associated with
6 cannabis use do not act as a deterrent to cannabis use, and few
7 of those who use cannabis on a regular basis experience the
8 consequences of these risks, notwithstanding the costs to
9 enforce the criminal statutes prohibiting such conduct.

10 A number of states have passed laws decriminalizing
11 cannabis to some degree. Typically, decriminalization means no
12 prison time or criminal record for first-time possession of a
13 small amount of cannabis for personal consumption. The conduct
14 is treated like a minor traffic violation. According to the
15 National Organization for the Reform of Marijuana Laws, the
16 following states have decriminalized possession of a small
17 amount of cannabis for personal consumption: California,
18 Colorado, Connecticut, Delaware, Maine, Maryland, Massachusetts,
19 Minnesota, Mississippi, Nebraska, Nevada, New York, North
20 Carolina, Ohio, Rhode Island, and Vermont. The following
21 jurisdictions have gone a step further and legalized the



1 possession of some amount of cannabis for personal use: Alaska,
2 California, Colorado, District of Columbia, Maine,
3 Massachusetts, Nevada, Oregon, and Washington.

4 According to a report prepared by the Connecticut Law
5 Revision Commission for the Judiciary Committee of the
6 Connecticut General Assembly, studies of states that have
7 reduced penalties for possession of small amounts of cannabis
8 have found that:

- 9 (1) Expenses for arrests and prosecution of cannabis
10 possession offenses were significantly reduced;
- 11 (2) If cannabis use increased, it increased less in states
12 with reduced penalties when compared to states that
13 did not reduce their penalties, and "the largest
14 proportionate increase occurred in those states with
15 the most severe penalties"; and
- 16 (3) Reducing the penalties for cannabis possession has
17 virtually no effect on either the choice or frequency
18 of use of alcohol or illegal "harder" drugs such as
19 cocaine.

20 In Hawaii county, a voter initiative was passed in 2008 by
21 a majority of 35,000 voters that directs county law enforcement



1 officials to treat the "adult personal use" of cannabis as its
2 lowest law enforcement priority and prohibits the county from
3 accepting or expending funds for the cannabis eradication
4 program and for enforcing potential offenses for the adult
5 personal use of cannabis.

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

12 The purpose of this Act is to authorize the counties to
13 adopt ordinances to legalize cannabis cultivation, possession,
14 sale, transfer, and use for persons over the age of twenty-one.

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

18 "§46- Legalization of cannabis. (a) Notwithstanding
19 any law to the contrary, any county may adopt an ordinance,
20 excluding referendums and initiatives, to legalize cannabis
21 cultivation, possession, sale, transfer, and use within its



1 geographical boundaries by any person over the age of twenty-one
2 years, whether for personal, commercial, or medicinal purposes.

3 (b) An ordinance adopted in accordance with subsection (a)
4 shall:

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

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

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

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

19 "§712- County legalization of cannabis. (a) A person
20 who cultivates, possesses, sells, transfers, or uses cannabis in
21 any amount shall not be deemed in violation of this part in any



S.B. NO. 2455

1 county that has adopted an ordinance and administrative rules
 2 pursuant to section 46- .

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

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

9 SECTION 5. New statutory material is underscored.

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

11

INTRODUCED BY:

Will Ego
Will Ego

Paul E. B.
Will
Ann Mercado Ki
Kal Rhoads
Yedlman Jr
Styl
Q.L. L.



S.B. NO. 2455

Report Title:

Cannabis; County Authorization to Legalize

Description:

Authorizes the counties to adopt ordinances to legalize cannabis cultivation, possession, sale, transfer, 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 cannabis and adopted administrative rules to regulate cannabis.

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

