A BILL FOR AN ACT

RELATING TO MARIJUANA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that certain state policies should be revised in response to our current economic climate. One of these policies relates to criminal offenses that prohibit the possession of marijuana. A 2014 QMark Research scientific survey of registered voters in the State found that sixty-three per cent of those surveyed favored making possession and personal use of marijuana a civil violation instead of a crime, and sixty-six per cent favored outright legalization of marijuana.

The legislature further finds that the costs to enforce criminal marijuana possession laws are substantial. According to a 2013 report entitled Budgetary Implications of Marijuana Decriminalization and Legalization for Hawai'i, state and county law enforcement agencies spent $9,300,000 in 2011 to enforce marijuana possession laws.

Despite the high costs of enforcement, the report notes that marijuana arrests are relatively infrequent in Hawaii, and
have declined precipitously compared to the experience during
the height of the 1980s war on drugs. However, since bottoming
out in 2004, marijuana possession and distribution arrests have
significantly increased. These arrests have particular effect
on certain members of the State's population, including adult
males under the age of twenty-five and people of native Hawaiian
descent, with members of these groups arrested in numbers
disproportionate to their share of the population. The report
also notes that the increased marijuana arrest rate is likely
driven by factors largely if not entirely unrelated to changes
in marijuana consumption. As such, the economic and social
costs to enforce criminal laws prohibiting possession of
marijuana appear to outweigh the benefit of arresting those who
possess marijuana for personal use.

Many states have passed laws decriminalizing marijuana to
some degree. Typically, decriminalization means no prison time
or criminal record for first-time possession of a small amount
of marijuana for personal consumption. Some states treat the
conduct like a minor traffic violation where a fine is
applicable for illegal possession. As of 2018, twenty-two
states and the District of Columbia have decriminalized
marijuana possession in small amounts. In addition, ten states and the District of Columbia legalized marijuana, including Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont, and Washington.

According to a 1997 drug policy report prepared by the Connecticut Law Revision Commission, studies of states that reduced penalties for possession of small amounts of marijuana found that:

1. Expenses for arrests and prosecution of marijuana possession offenses were significantly reduced;
2. If marijuana use increased, it increased less in states with reduced penalties when compared to states that did not reduce their penalties, but the largest proportionate increase occurred in those states with the most severe penalties; and
3. Reducing the penalties for marijuana possession had virtually no effect on either the choice or frequency of use of alcohol or illegal harder drugs such as cocaine.

In Hawaii county, a 2008 voter initiative directed county law enforcement officials to treat the adult personal use of
marijuana on private property as the county's lowest law enforcement priority and prohibited the county from accepting or expending funds for the marijuana eradication program and for enforcing potential offenses for the adult personal use of marijuana. Although this voter initiative was overturned by the Hawaii supreme court in 2014, this initiative may indicate that a majority of voters support legalizing marijuana for personal use.

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

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

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:
Legalization of marijuana. (a) Notwithstanding any law to the contrary, any county may adopt an ordinance, excluding referendums and initiatives, to legalize marijuana cultivation, possession, sale, transfer, and use within its geographical boundaries by any person over the age of twenty-one years, whether for personal, commercial, or medicinal purposes.

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

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

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

(c) A county that adopts an ordinance under this section shall adopt administrative rules pursuant to chapter 91 to regulate the cultivation, possession, sale, transfer, and use of marijuana. An ordinance shall not become effective until the rules are adopted."
SECTION 3. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

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

(b) This part shall not be enforceable in a county that has adopted an ordinance and rules pursuant to section 45-__.”

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

SECTION 5. New statutory material is underscored.

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

INTRODUCED BY:
Report Title:
Marijuana; County Authorization; Legalization; Regulation

Description:
Authorizes the counties to adopt ordinances to legalize marijuana cultivation, possession, sale, transfer, and use, for persons over the age of twenty-one. Clarifies that medical use of cannabis laws and 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.