

JAN 18 2019

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# 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. A 2014 QMark  
5 Research scientific survey of registered voters in the State  
6 found that sixty-three per cent of those surveyed favored making  
7 possession and personal use of marijuana a civil violation  
8 instead of a crime, and sixty-six per cent favored outright  
9 legalization of marijuana.

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

16           Despite the high costs of enforcement, the report notes  
17 that marijuana arrests are relatively infrequent in Hawaii, and



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

15 Many states have passed laws decriminalizing marijuana to  
16 some degree. Typically, decriminalization means no prison time  
17 or criminal record for first-time possession of a small amount  
18 of marijuana for personal consumption. Some states treat the  
19 conduct like a minor traffic violation where a fine is  
20 applicable for illegal possession. As of 2018, twenty-two  
21 states and the District of Columbia have decriminalized



1 marijuana possession in small amounts. In addition, ten states  
2 and the District of Columbia legalized marijuana, including  
3 Alaska, California, Colorado, Maine, Massachusetts, Michigan,  
4 Nevada, Oregon, Vermont, and Washington.

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

- 9 (1) Expenses for arrests and prosecution of marijuana  
10 possession offenses were significantly reduced;
- 11 (2) If marijuana use increased, it increased less in  
12 states with reduced penalties when compared to states  
13 that did not reduce their penalties, but the largest  
14 proportionate increase occurred in those states with  
15 the most severe penalties; and
- 16 (3) Reducing the penalties for marijuana possession had  
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 2008 voter initiative directed county  
21 law enforcement officials to treat the adult personal use of



1 marijuana on private property as the county's lowest law  
2 enforcement priority and prohibited the county from accepting or  
3 expending funds for the marijuana eradication program and for  
4 enforcing potential offenses for the adult personal use of  
5 marijuana. Although this voter initiative was overturned by the  
6 Hawaii supreme court in 2014, this initiative may indicate that  
7 a majority of voters support legalizing marijuana for personal  
8 use.

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

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

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



1        "§46-    Legalization of marijuana.    (a)    Notwithstanding  
2 any law to the contrary, any county may adopt an ordinance,  
3 excluding referendums and initiatives, to legalize marijuana  
4 cultivation, possession, sale, transfer, and use within its  
5 geographical boundaries by any person over the age of twenty-one  
6 years, whether for personal, commercial, or medicinal purposes.

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

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

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

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



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

4 "§712- County legalization of marijuana. (a) A person  
5 who cultivates, possesses, sells, transfers, or uses marijuana  
6 in any amount shall not be deemed in violation of this part in  
7 any county that has adopted an ordinance and administrative  
8 rules pursuant to section 46- .

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

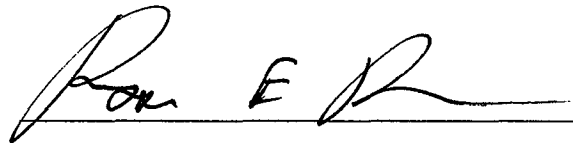
11 SECTION 4. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before the effective date of county ordinances adopted  
14 pursuant to this Act and administrative rules adopted thereto.


15 SECTION 5. New statutory material is underscored.

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

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INTRODUCED BY:







# S.B. NO. 442

**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.*

