

Vermont passes bill to decriminalize marijuana

By Peter Hirschfeld

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MONTPELIER — More than a decade after lawmakers here began pushing for the reform of cannabis laws, the Vermont Legislature has given final approval to a bill that will decriminalize possession of marijuana. The Vermont Legislature has agreed to eliminate the state's criminal penalties for possessing small amounts of marijuana and replace them with civil fines.

Gov. Peter Shumlin championed the measure in both his election campaigns, and lauded the Legislature's work this year.

"I applaud the Legislature's action to decriminalize the possession of small amounts of marijuana. Vermonters support sensible drug policies," Shumlin said in a written statement.

While Vermonters aren't customarily sentenced to long jail terms for small-time marijuana offenses, the crime does sometimes result in incarceration.

According to statistics provided by the Vermont Center for Justice Research, of the 5,716 people convicted of misdemeanor marijuana possession between 2008 and 2012, 472 were sentenced to jail time. Nearly 400 landed on probation, and 1,248 had to pay a fine. The data do not distinguish between cases that were standalone offenses and those that were part of a package of charges.

Shumlin said the reforms will allow "our courts and law enforcement to focus their limited resources more effectively to fight highly addictive opiates such as heroin and prescription drugs that are tearing apart families and communities."

Previously, first offense of possession up to two ounces of marijuana could result in up to six months in jail, a fine of up to \$500, or both. A subsequent offense carried up to two years in prison, a fine of up to \$2,000, or both.

The new law replaces criminal sanctions with a civil fine similar to a traffic ticket for those over 21, and with court diversion for minors. Adult possession of up to one ounce of marijuana (28.3 grams) or up to five grams of hash, a potent pot derivative, will be punishable by:

- Up to a \$200 fine for a first offense
- Up to a \$300 fine for a second offense
- Up to a \$500 fine for a third offense

Also, possession of up to an ounce of marijuana will not create a criminal record.

For first offense possession of more than one ounce of marijuana, more than five grams of hashish, or cultivation of marijuana, a person will be given an opportunity to participate in

diversion unless the prosecutor states on the record why diversion would not serve the ends of justice.

Persons between the ages of 16 and 21 who possess up to an ounce of marijuana or up to five grams of hash will have to attend the Diversion Program's Youth Substance Abuse Safety Program, which includes substance abuse screening and possibly substance abuse education, substance abuse counseling, or both.

Failing to complete the diversion program will result in:

- For a first offense, a \$300 civil fine and a 90-day driver's license suspension
- For a second offense, a \$600 civil fine and a 180-day driver's license suspension
- For a third offense, a person between the ages of 16 and 21 could be convicted of a misdemeanor and be sentenced to up to 30 days in jail, a fine of up to \$600, or both. This is only possible for those who don't complete diversion for a first and second offense.

A person under 16 years of age who possesses marijuana may have a delinquency petition filed. They must be given a chance to participate in diversion unless doing so wouldn't serve the ends of justice.

Consuming marijuana while driving will be punishable by a civil fine of up to \$500, which is the same penalty as consuming alcohol while driving. As for the public use of marijuana, municipalities will be allowed to impose higher penalties on this.

Decriminalization proponents said the effects of misdemeanor possession conviction can have severe consequences even in instances when the punishment is only a small fine. Younger offenders have found themselves unable to qualify for federal student loans and other government benefits as a result of their criminal record.

Sen. David Zuckerman, a Chittenden County Progressive who first introduced decriminalization legislation as a House representative several years ago, said the passage of the new law is a case of politicians finally catching up with the will of their constituents.

"I think after the 'just say no' era of Ronald Reagan, politicians were afraid to talk about drugs in a sane, rational way," Zuckerman said.

He said the passage of medical marijuana laws in 2004 allowed many elected officials here to feel more comfortable considering decriminalization.

"When they say there wasn't any negative reaction to that vote," Zuckerman said, "they opened up to the possibility of talking about marijuana reform in a rational way."

Vermont joins seventeen other states and Washington, DC that have adopted marijuana "decriminalization" laws. Thirty-five cities across the country have also decriminalized marijuana, with Philadelphia being the largest city to do so when it decriminalized marijuana in October 2014.