

2024 Regular Session

HOUSE BILL NO. 649

BY REPRESENTATIVE NEWELL

CONTROLLED SUBSTANCES: Provides for a proposition election regarding the legalization of marijuana

1 AN ACT

2 To amend and reenact R.S. 40:966(B)(2) and (C)(2), to enact R.S. 40:989.4, and to repeal
3 R.S. 40:964(Schedule I)(C)(19) and 966(D)(1), relative to marijuana; to provide for
4 a proposition election regarding the decriminalization of marijuana; to remove
5 criminal penalties associated with the possession, distribution, or dispensing of
6 marijuana contingent upon the outcome of that election; to provide for a contingent
7 effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:966(B)(2) and (C)(2) are hereby amended and reenacted to read
10 as follows:

11 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
12 listed in Schedule I; ~~possession of marijuana~~, synthetic cannabinoids, and
13 heroin

14 * * *

15 B. Violations of Subsection A. Any person who violates Subsection A of
16 this Section with respect to:

17 * * *

18 (2) A substance classified in Schedule I which is ~~marijuana,~~
19 ~~tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols,~~ or synthetic
20 cannabinoids for an amount of:

21 * * *

1 C. Possession. It is unlawful for any person knowingly or intentionally to
2 possess a controlled dangerous substance classified in Schedule I unless such
3 substance was obtained directly, or pursuant to a valid prescription or order, from a
4 practitioner or as provided in R.S. 40:978, while acting in the course of his
5 professional practice, or except as otherwise authorized by this Part. Any person
6 who violates this Subsection with respect to:

7 * * *

8 ~~(2) A substance classified in Schedule I that is marijuana,~~
9 ~~tetrahydrocannabinol, or chemical derivatives thereof, shall be punished as follows:~~

10 ~~(a)(i) On a first conviction or any subsequent conviction, wherein the~~
11 ~~offender possesses fourteen grams or less, the offender shall be fined not more than~~
12 ~~one hundred dollars:~~

13 ~~(ii) If an offender upon whom a fine has been imposed under this~~
14 ~~Subparagraph alleges indigency, or otherwise fails to pay the imposed fine, the court~~
15 ~~shall determine whether the defendant has willfully refused to pay or has made bona~~
16 ~~fide efforts to legally acquire resources to pay. If an offender has not willfully~~
17 ~~refused to pay and has made bona fide efforts to attempt to pay the fine imposed, the~~
18 ~~court shall use its discretion to alternatives, including installment payments or~~
19 ~~community service:~~

20 ~~(iii) This Subparagraph shall be enforced by use of summons in lieu of~~
21 ~~custodial arrest, in accordance with Code of Criminal Procedure Article 211.~~

22 ~~(b) On a first conviction, wherein the offender possesses more than fourteen~~
23 ~~grams, the offender shall be fined not more than five hundred dollars, imprisoned in~~
24 ~~the parish jail for not more than six months, or both:~~

25 ~~(c) Any person who has been sentenced under the provisions of~~
26 ~~Subparagraph (a) or (b) of this Paragraph and who has not been convicted of any~~
27 ~~other violation of a statute or ordinance prohibiting the possession of marijuana for~~
28 ~~a period of two years from the date of completion of sentence, probation, parole, or~~
29 ~~suspension of sentence shall not have the conviction used as a predicate conviction~~

1 for enhancement purposes. The provisions of this Paragraph shall occur only once
2 with respect to any person:

3 (d) ~~On a second conviction, wherein the offender possesses more than~~
4 ~~fourteen grams, the offender shall be fined not more than one thousand dollars,~~
5 ~~imprisoned in the parish jail for not more than six months, or both.~~

6 (e)(i) ~~On a third conviction, wherein the offender possesses more than~~
7 ~~fourteen grams, the offender shall be sentenced to imprisonment, with or without~~
8 ~~hard labor, for not more than two years, shall be fined not more than two thousand~~
9 ~~five hundred dollars.~~

10 (ii) ~~If the court places the offender on probation, the probation shall provide~~
11 ~~for a minimum condition that he participate in a court-approved substance abuse~~
12 ~~program and perform four eight-hour days of court-approved community service~~
13 ~~activities. Any costs associated with probation shall be paid by the offender.~~

14 (f)(i) ~~On a fourth or subsequent conviction, wherein the offender possesses~~
15 ~~more than fourteen grams, the offender shall be sentenced to imprisonment with or~~
16 ~~without hard labor for not more than eight years, shall be fined not more than five~~
17 ~~thousand dollars, or both.~~

18 (ii) ~~If the court places the offender on probation, the probation shall provide~~
19 ~~for a minimum condition that he participate in a court-approved substance abuse~~
20 ~~program and perform four eight-hour days of court-approved community service~~
21 ~~activities. Any costs associated with probation shall be paid by the offender.~~

22 (g) ~~Except as provided in Subparagraph (c) of this Paragraph, a conviction~~
23 ~~for the violation of any other statute or ordinance with the same elements as~~
24 ~~Subsection C of this Section prohibiting the possession of marijuana,~~
25 ~~tetrahydrocannabinol or chemical derivatives thereof, shall be considered as a prior~~
26 ~~conviction for the purposes of this Subsection relating to penalties for second, third,~~
27 ~~or subsequent offenders.~~

28 (h) ~~Except as provided in Subparagraph (c) of this Paragraph, a conviction~~
29 ~~for the violation of any other statute or ordinance with the same elements as~~

1 Paragraph (B)(2) of this Section prohibiting the distributing or dispensing or
2 possession with intent to distribute or ~~dispense marijuana, tetrahydrocannabinol or~~
3 ~~chemical derivatives thereof, or synthetic cannabinoids~~ shall be considered as a prior
4 conviction for the purposes of this Subsection relating to penalties for second, third,
5 or subsequent offenders.

6 * * *

7 Section 2. R.S. 40:989.4 is hereby enacted to read as follows:

8 §989.4. Decriminalization of marijuana; election; ballot language

9 A.(1) At the statewide general election occurring on November 5, 2024, a
10 proposition shall appear on the ballot in every parish to determine whether the
11 possession, distribution, or dispensing of marijuana, tetrahydrocannabinols, or
12 chemical derivatives thereof shall be legal for persons twenty-one years of age or
13 older.

14 (2) The ballot for the election shall state as follows:

15 "PROPOSITION ON DECRIMINALIZATION OF MARIJUANA

16 Shall the possession, distribution, or dispensing of marijuana,
17 tetrahydrocannabinols, or chemical derivatives thereof by persons twenty-one years
18 of age or older no longer be a criminal offense in the state of Louisiana?"

19 B.(1) If a majority of the qualified electors of the election area voting on the
20 proposition approve the proposition, then the possession, distribution, or dispensing
21 of marijuana, tetrahydrocannabinols, or chemical derivatives thereof by persons
22 twenty-one years of age or older shall no longer be a criminal offense subject to law
23 subsequently enacted to provide for the regulation and taxation of marijuana sales.

24 (2) If a majority of the qualified electors of the election area voting on the
25 proposition vote against such proposition, then the possession, distribution, or
26 dispensing of marijuana, tetrahydrocannabinols, or chemical derivatives thereof shall
27 remain illegal as provided by law.

28 C. The secretary of state shall prepare the ballot for the election.

1 D. Except as otherwise provided, the election required pursuant to this
2 Section shall be conducted in accordance with the Louisiana Election Code.

3 E. Notwithstanding Chapter 8-A of the Louisiana Election Code, the costs
4 of the election required pursuant to this Section shall be borne by the state.

5 Section 3. R.S. 40:964(Schedule I)(C)(19) and 966(D)(1) are hereby repealed in their
6 entirety.

7 Section 4. This Section and Sections 2 and 5 of this Act shall become effective on
8 August 1, 2024.

9 Section 5. Sections 1 and 3 of this Act shall become effective on or before August
10 1, 2026, if both of the following occur: (1) a majority of the electors approve the proposition
11 to decriminalize marijuana at the election conducted on November 5, 2024, as provided for
12 in R.S. 40:989.4, and (2) the legislature provides for a statutory regulatory system for the
13 legal sale and distribution of marijuana and establishes a sales tax on those sales prior to
14 August 1, 2026.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 649 Original

2024 Regular Session

Newell

Abstract: Enacts a proposition election to determine if marijuana usage should be decriminalized.

Present law provides for the regulation of Controlled Dangerous Substances, and prohibits the possession, distribution, dispensing, or possession with intent to distribute or dispense marijuana.

Proposed law authorizes the conducting of an election on Nov. 5, 2024, to determine whether the possession, distribution, or dispensing of marijuana, tetrahydrocannabinols, or chemical derivatives thereof by persons 21 years of age or older should no longer be a criminal offense in the state of La.

Proposed law provides that if a majority of the electors approve the proposition, then the possession, distribution, or dispensing of marijuana by persons 21 years of age or older shall no longer be a criminal offense subject to law subsequently enacted to provide for the regulation and taxation of marijuana sales. If the electors do not approve the proposition then marijuana remains illegal as provided for in present law.

Proposed law removes those criminal penalties contingent upon: (1) the voters approving the proposition provided for in proposed law, and (2) the legislature subsequently providing

for a statutory regulatory system for the legal sale and distribution of marijuana and establishes a sales tax on those sales by Aug. 1, 2026.

(Amends R.S. 40:966(B)(2) and (C)(2); Adds R.S. 40:989.4; Repeals R.S. 40:964(Schedule I)(C)(19) and 966(D)(1))