

2015 Regular Session

HOUSE BILL NO. 117

BY REPRESENTATIVE HONORE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:966(B)(3), (E) and (F), are hereby amended and reenacted and
10 R.S. 40:989.4 is hereby enacted to read as follows:

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

14 * * *

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

17 * * *

18 (3) A substance classified in Schedule I which is ~~marijuana~~;
19 ~~tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or synthetic~~
20 cannabinoids shall upon conviction be sentenced to a term of imprisonment at hard

1 labor for not less than five nor more than thirty years, and pay a fine of not more than
2 fifty thousand dollars.

3 * * *

4 E. Possession of ~~marijuana~~, or synthetic cannabinoids. (1) Except as
5 provided in Subsections E and F of this Section, on a first conviction for violation
6 of Subsection C of this Section with regard to ~~marijuana, tetrahydrocannabinol, or~~
7 ~~chemical derivatives thereof~~, or synthetic cannabinoids, the offender shall be fined
8 not more than five hundred dollars, imprisoned in the parish jail for not more than
9 six months, or both.

10 (2)(a) Except as provided in Subsection F or G of this Section, on a second
11 conviction for violation of Subsection C of this Section with regard to ~~marijuana,~~
12 ~~tetrahydrocannabinol or chemical derivatives thereof~~, or synthetic cannabinoids, the
13 offender shall be fined not less than two hundred fifty dollars, nor more than two
14 thousand dollars, imprisoned with or without hard labor for not more than five years,
15 or both.

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

20 (3) Except as provided in Subsection F or G of this Section, on a third or
21 subsequent conviction for violation of Subsection C of this Section with regard to
22 ~~marijuana, tetrahydrocannabinol or chemical derivatives thereof~~, or synthetic
23 cannabinoids, the offender shall be sentenced to imprisonment with or without hard
24 labor for not more than twenty years, and may, in addition, be sentenced to pay a fine
25 of not more than five thousand dollars.

26 (4) A conviction for the violation of any other statute or ordinance with the
27 same elements as R.S. 40:966(C) prohibiting the possession of ~~marijuana,~~
28 ~~tetrahydrocannabinol or chemical derivatives thereof~~, or synthetic cannabinoids shall

1 be considered as a prior conviction for the purposes of this Subsection relating to
2 penalties for second, third, or subsequent offenders.

3 (5) A conviction for the violation of any other statute or ordinance with the
4 same elements as R.S. 40:966(B)(3) prohibiting the distributing or dispensing or
5 possession with intent to distribute or dispense ~~marijuana, of marijuana,~~[†]
6 ~~tetrahydrocannabinol or chemical derivatives thereof,~~ or synthetic cannabinoids shall
7 be considered as a prior conviction for the purposes of this Subsection relating to
8 penalties for second, third, or subsequent offenders.

9 F. Except as otherwise authorized in this Part:

10 (1) Any person who knowingly or intentionally possesses sixty pounds or
11 more, but less than two thousand pounds of ~~marijuana, tetrahydrocannabinol or~~
12 ~~chemical derivatives thereof,~~ or synthetic cannabinoids shall be sentenced to serve
13 a term of imprisonment at hard labor of not less than five years, nor more than thirty
14 years, and to pay a fine of not less than fifty thousand dollars nor more than one
15 hundred thousand dollars.

16 (2) Any person who knowingly or intentionally possesses two thousand
17 pounds or more, but less than ten thousand pounds of ~~marijuana,~~
18 ~~tetrahydrocannabinol or chemical derivatives thereof,~~ or synthetic cannabinoids shall
19 be sentenced to serve a term of imprisonment at hard labor of not less than ten years
20 nor more than forty years, and to pay a fine of not less than one hundred thousand
21 dollars nor more than four hundred thousand dollars.

22 (3) Any person who knowingly or intentionally possesses ten thousand
23 pounds or more of ~~marijuana, tetrahydrocannabinol or chemical derivatives thereof,~~
24 ~~or~~ synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard
25 labor of not less than twenty-five years, nor more than forty years and to pay a fine
26 of not less than four hundred thousand dollars nor more than one million dollars.

27 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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

2 §989.4. Decriminalization of marijuana; election; ballot language

3 A.(1) At the statewide general election occurring on November 8, 2016, a
4 proposition shall appear on the ballot in every parish to determine whether the
5 possession, distribution, or dispensing of marijuana, tetrahydrocannabinols, or
6 chemical derivatives thereof shall be legal for persons twenty-one years of age or
7 older.

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

9 "PROPOSITION ON DECRIMINALIZATION OF MARIJUANA

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

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

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

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

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

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

27 Section 3. R.S. 40:964(Schedule I)(C)(19) is hereby repealed in its entirety.

28 Section 4. This Section and Sections 2 and 5 of this Act shall become effective on
29 August 1, 2015.

1 Section 5. Sections 1 and 3 of this Act shall become effective on or before August
2 1, 2018, if both of the following occur: (1) a majority of the electors approve the proposition
3 to decriminalize marijuana at the election conducted on November 8, 2016, as provided for
4 in R.S. 40:989.4, and (2) the legislature provides for a statutory regulatory system for the
5 legal sale and distribution of marijuana and establishes a sales tax on those sales prior to
6 August 1, 2018.

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 117 Original

2015 Regular Session

Honore

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. 8, 2016, 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, 2018.

(Amends R.S. 40:966(B)(3), (E), and (F); Adds R.S. 40:989.4; Repeals R.S. 40:964(Schedule I)(C)(19))