

COMMITTEE ON HOMELAND SECURITY, JUSTICE
AND PUBLIC SAFETY

09/24/2014-AMENDED AND REPORTED OUT TO THE FLOOR
09/18/14-AMENDED AND REPORTED OUT TO RULES AND JUDICIARY
10/25/2013-HELD IN COMMITTEE

BILL NO. 30-0018

Thirtieth Legislature of the Virgin Islands

March 6, 2013

An Act to reduce the penalties for the possession of small amounts of marijuana to fines rather than imprisonment, and to exclude possession, distribution and manufacturing of marijuana from the class of crimes under which license revocation is mandatory upon conviction

PROPOSED BY: Senators Terrence “Positive” Nelson and Shawn-Michael Malone

1 **WHEREAS**, the Constitution of the United States and federal law do not prohibit
2 states and territories from having criminal penalties that differ from federal law; and

3 **WHEREAS**, twenty states have enacted cannabis decriminalization statutes: Alaska,
4 Arkansas, California, Colorado, Connecticut, Hawaii, Maine, Massachusetts, Minnesota,
5 Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio, Oregon, Pennsylvania,
6 Rhode Island, Vermont and Washington; and

7 **WHEREAS**, decriminalization is the removal of criminal penalties in relation to
8 certain acts, although regulated permits or fines might still apply; and

1 **WHEREAS**, decriminalization typically reflects the changing views of society, as
2 society may come to view a particular act as not harmful; and

3 **WHEREAS**, decriminalization does not “legalize” activity, which would be
4 accomplished by removing all or most legal detriments from a previously illegal act; and

5 **WHEREAS**, on the national level, it is estimated that the United States spends \$12.1
6 billion on law enforcement and judicial costs related to marijuana possession, and an
7 additional 16.9 billion in corrections costs for those convicted of marijuana possession,
8 totaling \$29 billion annually; and

9 **WHEREAS**, in the small state of Connecticut, the Connecticut Office of Fiscal
10 Analysis estimated that decriminalizing simple possession of marijuana by imposing a \$250
11 fine would save the state and local police departments \$30 million per year, and would save
12 an additional \$1.9 million in court and probation costs; and

13 **WHEREAS**, the savings resulting from a reduction in court and corrections costs
14 from arrest and prosecution of persons for simple marijuana possession are of great
15 significance given the current fiscal crisis engulfing the government of the Virgin Islands;
16 and

17 **WHEREAS**, decriminalization of marijuana would free up criminal justice
18 resources to deal with more serious crimes, which are particularly salient given the
19 extremely high murder rates in the Virgin Islands; and

20 **WHEREAS**, according to a study by the Centers for Disease Control, in 2007 there
21 were 23,199 alcohol-induced deaths in the United States, excluding accidents and
22 homicides, while there were no marijuana-induced deaths; and

23 **WHEREAS**, a University of California, Los Angeles (UCLA) study found a lower
24 lung cancer rate among marijuana-only smokers than non-smokers, while alcohol has been

1 found to contribute to a variety of long-term negative health effects, including cancers and
2 cirrhosis of the liver; and

3 **WHEREAS**, studies have shown that alcohol use increases the likelihood of
4 domestic abuse and sexual assaults, while marijuana use has not been linked to an increase
5 in either of these crimes; and

6 **WHEREAS**, harsh penalties for marijuana possession are not associated with lower
7 use rates, and in some cases, the opposite has been found; and

8 **WHEREAS**, according to a study released by the Citizens' Commission on Civil
9 Rights in 2000, 13% of the nation's drug users are African American; 8% are Hispanic
10 Americans and 76% are Caucasian Americans; which is a rough match with each group's
11 share of the United States population. Yet, African Americans represent almost 38% of all
12 drug arrests; 59% of drug convictions, and a staggering 74% of those sentenced for a drug
13 offense; and

14 **WHEREAS**, investigators from the nonpartisan Institute of Medicine released their
15 findings in a publication entitled "*Marijuana and Medicine: Assessing the Science Base*,"
16 that nausea, appetite loss, pain and anxiety are all afflictions that can be mitigated by the use
17 of marijuana; and

18 **WHEREAS**, the American College of Physicians urges an evidence-based review of
19 marijuana's status to determine whether it should be classified as a Schedule 1 controlled
20 substance, and strongly supports allowing the medical usage of marijuana; and

21 **WHEREAS**, in each of these jurisdictions that has enacted cannabis
22 decriminalization statutes, rates of marijuana consumption and hard drug consumptions
23 have not risen, and in many cases have actually fallen; Now, Therefore,

24 ***Be it enacted by the Legislature of the Virgin Islands:***

1 **SECTION 1.** Title 19 Virgin Islands Code, Part III, Chapter 29, Subchapter I,
2 section 593 is amended in Paragraph (19) after the words, “The term” by inserting the
3 words, “marijuana”.

4 **SECTION 2.** Title 19 Virgin Islands Code, Part III, Chapter 29, Subchapter I is
5 amended in the following instances:

6 (a) Section 607 is amended at the beginning the subsection (a) by adding an
7 exception clause that reads as follows: “Except as provided in section 607a”; and

8 (b) Section 607a is added and reads as follows:

9 **“§607a. Possession of marijuana**

10 (a) *Definitions.* For purposes of this chapter, the term --

11 (1) ‘Marijuana’ has the same meaning as provided in title 19 Virgin
12 Islands Code section 593.

13 (2) ‘Manufacture’ has the same meaning as provided in section 593(18)
14 of this title.

15 (b) *Simple possession of marijuana.* Notwithstanding the provisions of titles 14
16 of the Virgin Islands Code:

17 (1) Any person who possesses one ounce or less of marijuana commits a
18 civil infraction that is a civil offense punishable by a fine of \$100, payable no later
19 than 90 days after assessment, and may be subject to forfeiture of the contraband.

20 (2) Any person who openly and publicly displays, consumes, or uses one
21 ounce or less of marijuana commits a civil offense punishable by a fine of not more
22 than \$200, payable no later than 90 days after assessment, and is subject to forfeiture
23 of the contraband.

24 (3) Any person under the age of eighteen at the time of the offense, who
25 possesses one ounce or less of marijuana commits an infraction that is a civil offense

1 punishable by a fine of \$100, payable no later than 90 days after assessment, and is
2 subject to forfeiture of the contraband. The parents or guardians of any such
3 offender must be notified, and the offender must be required to complete an
4 approved drug awareness program within one year of the offense. Any such
5 offender, who fails to complete an approved drug awareness program within one
6 year of the offense, must be referred to the Family Division of the Superior Court of
7 the Virgin Islands for delinquency proceedings.

8 (4) Any person assessed a civil fine under this subsection who fails to
9 pay the fine within 90 days after its assessment shall pay double the amount
10 assessed.

11 (c) All civil penalties established in this section may be assessed by the
12 appropriate court.

13 (d) As used in this section, possession of one ounce or less of marijuana does not
14 include the weight of other ingredients in marijuana prepared for consumption as food or
15 drink. Possession of paraphernalia for ingestion, use, inhalation, preparation or storage at the
16 time of the commission of the civil infraction of possession of one ounce or less of
17 marijuana is not a violation of section 630 of this subtitle.

18 (e) Neither the Government of the Virgin Islands, nor any of its agencies,
19 authorities or instrumentalities may impose any form of penalty, sanction, restriction, or
20 disqualification on a person for possessing one ounce or less of marijuana or paraphernalia
21 for marijuana use, nor may any penalties or obligations exceeding those prescribed in
22 subsections (a) and (b) of this section be imposed by the Government of the Virgin Islands
23 or any of its agencies, authorities or instrumentalities solely for having cannabinoids, or
24 cannabinoid metabolites in the urine, blood, sweat, hair, fingernails, toenails, or other tissue
25 or fluid of the human body. However, nothing contained in this subsection may be

1 construed to repeal or modify existing laws, regulations, bylaws, personnel practices, or
2 policies concerning the operation of motor vehicles or other actions taken while under the
3 influence of marijuana.

4 (f) Information concerning the offense of possession of one ounce or less of
5 marijuana must not be recorded in any database of criminal offenders.

6 (g) Possession of one ounce or less of marijuana is not a violation of parole or
7 probation.

8 (h) Any person who fails to pay the fines imposed for a civil infraction by 180th
9 day after the civil infraction pursuant to this section commits a misdemeanor and is subject
10 to the imposition of additional fines not to exceed \$500, imprisonment not to exceed 3
11 months, or both fine and imprisonment.

12 **SECTION 3.** Title 20 Virgin Islands Code, part II, chapter 35, section 378 is
13 amended adding subsection (d) to read as follows:

14 “(d) This section does not apply to persons adjudicated pursuant to 19 V.I.C. §
15 607a.”

16

17

BILLSUMMARY

18 Section 1 of the bill amends 19 VIC § 593 to add a definition for “marijuana
19 concentrate and clarify other definitions. Section 2 of this bill amends title 19, part III,
20 chapter 29, subchapter I of the Virgin Islands Code by reducing the penalties for the
21 possession of small amounts of marijuana to fines rather than imprisonment. Internal §
22 607a, subsection (a) sets forth definitions of terms as used in the section. Subsection (b)
23 establishes reduced penalties for simple possession of marijuana. Subsection (c) allows the
24 Commissioner of Health to assess civil fines for simple of marijuana.

1 Section 3 amends title 20, part II, chapter 35, section 378 of the Virgin Islands Code
2 by excluding possession, distribution and manufacturing of marijuana from the class of
3 crimes under which license revocation is mandatory upon conviction.

4

5

6 **BR13-0037/February 13, 2013/**

7 [..\AMENDS\30th Legislature\30-847 Revised.docx](#)

8

9 [..\AMENDS\30th Legislature\30-1143\(b\)-passed in Comm. on Rules.docx](#)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26