

RESOLUTION 10-07-2014

DIGEST

Marijuana: Legalization, Regulation and Taxation

Proposes legislation to legalize, regulate and tax the cultivation, possession and sale of marijuana and its derivatives, in the same manner as alcohol and tobacco sales.

RESOLUTIONS COMMITTEE RECOMMENDATION DISAPPROVE

History:

Similar to Resolution 11-04-2002, which was withdrawn, Resolutions 03-09-2007 and 11-09-2011, which were approved in principle, Resolutions 06-09-2009 and 01-02-2010, which were approved in principle as amended, and Resolution 09-03-2013, which was disapproved.

Reasons:

This resolution proposes legislation to legalize, regulate and tax the cultivation, possession and sale of marijuana and its derivatives, in the same manner as alcohol and tobacco sales. This resolution should be disapproved because the resolution lacks the text of the proposed legislation, and as such, it is speculative and inscrutable.

The resolution generally urges that the Legislature and the Governor support, pass and enact unspecified legislation to legalize the possession, sale, cultivation, and other unspecified “conduct.” But the resolution does not identify what legislation should be supported, passed, or enacted – added, amended or removed – to effect the proponent’s generic vision or goal.

Marijuana has been determined a Schedule I controlled substance, governed by the federal Controlled Substance Act. Under the Supremacy Clause, California cannot definitively legalize, regulate or tax a substance the Drug Enforcement Administration maintains is illegal to cultivate, possess, sell or use, to the extent the federal government chooses to enforce its law over any California enactment inconsistent with the Controlled Substance Act, or Drug Enforcement Administration policy and practice.

TEXT OF RESOLUTION

RESOLVED, that the Conference of California Bar Associations recommends that the Legislature and governor be urged to support, pass, and enact legislation to legalize the possession, sale, cultivation, and other conduct relating to marijuana and its derivatives by persons 21 years of age and older, regulate the sales of marijuana, impose fees on its sale, and, in general, treat marijuana sales in much the same manner as alcohol sales.

PROPONENT: National Lawyers Guild - San Francisco Bay Chapter

STATEMENT OF REASONS

The Problem: This resolution recommends regulation and taxation of marijuana for recreational use in California, as has recently been accomplished in Colorado and Washington states. This approach would end one form of governmental intrusion into the private lives of individuals, and generate much-needed tax revenue for the State of California.

The Solution: Regulation and taxation would eliminate penalties for the cultivation, distribution, and possession of marijuana for adults 21 years of age and older. Marijuana should be regulated much like alcohol and tobacco, creating a tax that would bring in over a billion dollars to the State of California. The use of marijuana would not be totally unrestricted, but would rather be carefully controlled and regulated. Growers would be required to purchase a license and renew that license every year for a fee. The Los Angeles Times has reported an estimate that California's marijuana crop is a 14 billion dollar industry, above even vegetables and grapes. Taxing this industry would result in increased tax revenue for a struggling economy.

Marijuana prohibition needlessly destroys the lives and careers of literally hundreds of thousands of good, hard-working, productive citizens each year. The FBI reported in 2007 that more than 800,000 Americans were arrested on marijuana charges the previous year, and that more than 5 million Americans had been arrested for marijuana offenses in the past decade. Nearly 90 percent of those arrests were for simple possession, not trafficking or sale. The criminalization of marijuana has invited government into our private lives; and wasted valuable law enforcement resources, which should be directed to serious and violent crimes.

Several cities in California and elsewhere, including Santa Barbara, Santa Monica, Denver and Seattle, have enacted laws lowering the penalties for marijuana use. State Board of Equalization Chairperson Betty Yee, former San Francisco Sheriff Mike Hennessey and retired Orange County Superior Court Judge James Gray all support legalization. As former President Jimmy Carter stated: "Penalties against drug use should not be more damaging to an individual than the use of the drug itself. Nowhere is this clearer than in the laws against the possession of marijuana in private for personal use."

LEGISLATIVE HISTORY

Not known.

IMPACT STATEMENT

The proposed resolution does not affect any other law, statute or rule.

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