



Marijuana will be legal in July. Now what?

Rachel Needham

Apr 16, 2021

Rappahannock resident Cheryl Crews, seen here among hemp plants, has been cultivating a community of hemp growers. She thinks marijuana legalization is beneficial but doesn't yet do much to boost potential agricultural uses.

Courtesy of the Rappahannock Hemp Collective Steering Committee

The Virginia General Assembly's decision to legalize small quantities of marijuana drew mixed reactions from area organizations and residents.

Come July 1, the legalization bill allows residents 21 and over to possess up to an ounce of marijuana and grow up to four plants in their homes so long as they are labeled while being kept in a private location away from minors.

The law will be enacted one year after possession of up to an ounce was deemed a civil violation punishable by a \$25 citation. Previously, such possession was a misdemeanor with penalties including fines or possible jail time. Such misdemeanor offenses will be expunged from offenders' records with the new law.

While retail marijuana will not be sold until 2024, the bill enacted a new Cannabis Control Authority to oversee businesses and establish a "regulatory structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products."

While individuals on both sides of the issue make passionate arguments, a libertarian think tank, the Cato Institute, found that the only verifiable fact is that legalization increases tax revenue. Otherwise, the think tank found there is not enough data on post-legalization trends to support "the strong claims about legalization made by either opponents or supporters."

Marijuana previously accounted for the majority of Virginia drug arrests

Before marijuana became decriminalized, it accounted for the majority of drug-related arrests for the previous three years. A Virginia State Police report shows that statewide drug arrests totaled 46,429 in 2019, of which 26,470 were marijuana-related. Additionally, the report found that marijuana accounted for the majority of statewide drug arrests in 2018 and 2017 at 59% and 61.3% respectively.

Since marijuana was decriminalized, the Culpeper Police Department reported that it has handed out 44 citations. When it was illegal, the department said marijuana accounted for 163 in-town arrests in 2019, 146 in 2018, 130 in 2017, 117 in 2016, 57 in 2015 and 58 in 2014.

According to research published by the American Civil Liberties Union, Culpeper County was among the top 20 counties nationwide for marijuana possession arrests per 100,000 people in 2018. Culpeper County Sheriff Scott Jenkins said he is unaware of those numbers and found them “surprising,” adding “if they’re claiming that it’s accurate, there’s not much I can really say.”

From 2010-2018, the ACLU report shows that Culpeper saw a 371% increase in its marijuana possession arrest rate. Sheriff Jenkins, who was first elected in 2012, responded by saying that statistic is “certainly possible.” During his first term, he noted that the office’s DUI and drug arrests tripled and those figures increased for the next three years. Just one squad, he added, wrote more summonses and made more arrests in six months than the previous administration’s entire patrol division in four years.

“We’re very proud of those numbers. So I guess when you mention 2010 to 18, it doesn’t surprise me because we had a new sheriff in town. And the sheriff was aggressive with a great staff. I would say, ACLU, I rarely agree with them on anything. On that, I’d say thank you, I’m gonna give my people an ‘attaboy’ on their arrests,” Sheriff Jenkins said.

Regardless of “roughly equal usage rates,” the ACLU also found that between 2010-18 Black Virginians were, on average, 3.4 times more likely to be arrested for marijuana possession than White Virginians. In the same period, Fauquier County saw one of the largest increases in the nation for its racial disparity in marijuana possession arrests.

The same study found that while Virginia has a slightly lower-than-average racial disparity in marijuana charges, Culpeper, Fauquier, Madison, Orange and Rappahannock counties all have racial disparities above the national average. Sheriff Jenkins said he cannot provide any reasoning behind those numbers other than to say “they are what they are.”

“We’re very proud of our work here and the fact that we just generally don’t receive complaints and issues concerning those types of things,” he said. “That’s a non-issue for us.”

NAACP president applauds legalization but says past disparities must be addressed

Culpeper NAACP President Dr. Uzziah Harris said while legalizing marijuana could be a positive action, steps must be taken to reverse the effects of disproportionate and adverse effects the Black community suffered while marijuana was illegal.

“I do applaud it but I also do understand that much more needs to be done in terms of providing redress to the African American community for the disparities,” he said.

Beyond record expungements, Harris said legalization-related profits should be reinvested in the communities that have suffered.

“If you don’t do that then you’ve only taken care of the tip of the iceberg,” he said.

Once legalized, he added that issues may remain with marijuana-related policing. As with alcohol, for example, he said a police officer may say they detect the odor of marijuana and determine that the driver is perhaps under the influence.

The bill does prevent “using or consuming marijuana...while in a motor vehicle” and allows judges or juries to presume a person has consumed marijuana if an “open container is located

within the passenger area.” An open container is defined as any “vessel” beside a manufacturer’s container holding marijuana while a passenger area does not include a vehicle’s trunk.

Issues with marijuana, Harris added, have been a “microcosm of larger problems” relating to policing in America. If law enforcement does not protect and serve all communities equally, he said any progressive steps taken are merely band-aides for deep scar tissue wounds.

A win for cannabis as recreational drug and medicine, but not for ‘farm-scale’ growers

Cherl Crews, an art director and hemp advocate in Rappahannock County, sees this new legislation as a win for cannabis and its use as a recreational drug and medicine. A founding member of the Rappahannock Hemp Collective nonprofit dedicated to advancing the agricultural hemp industry in the region, she added that Virginia’s new bill does little to create opportunity for farm-scale marijuana growers.

The terms “hemp” and “marijuana” refer to the same species of plant in the cannabaceae family, but hemp contains a tiny fraction of the psychoactive compound THC that is in marijuana. The fiber from hemp is used in the manufacturing of textiles, paper products, oils, rope, insulation, biofuel and a host of other materials. Hemp farming was legalized in the federal 2018 Farm Bill, while marijuana laws have been left under the purview of the states.

“Right now what I think they’re trying to do is address the pot smokers and [replace] the tobacco industry in addition to alcohol ... there are a lot of benefits to marijuana on a recreational level,” Crews said. “Legalizing is great for personal use, but as a commodity for your agricultural communities that are looking for viable crops to sustain themselves, it’s not even touching that,” she said.

Crews added that “as recreation, cannabis is a hundred percent a proactive drug. It’s not a gateway drug.”

But not everyone agrees, as Judith Hamm, a reader of the Rappahannock News, said while CBD has become very popular and readily available, marijuana should not be legalized.

“This creates a lot of household problems. In a family with children and pets, the situations that could arise from the ‘only [four] plants’ could be hazardous. Such a can of worms to be dealt with,” she said.

Another Rappahannock resident, who said her son is recovering from a marijuana addiction, commented that legalization is a “very bad idea.”

“Ask anyone who is a professional in the field of addiction,” she said.

Law enforcement leaders staunchly oppose legalization

Culpeper’s two leading law enforcement officers, Sheriff Jenkins and Police Chief Chris Jenkins, both expressed strong opposition to the legalization of marijuana. Both cited their belief that marijuana use is a gateway to harder drugs.

Chief Jenkins noted that he has never met an addict who did not try marijuana before graduating to heroin or cocaine.

“Each person is different but when you start chasing a high, do you ever get to the high you want to stop?” Chief Jenkins asked.

Sheriff Jenkins agreed, saying “I have yet to run across any person in the course of my duties in 31 years that is using any type of hard drug - from cocaine to heroin to PCP and others - that does not say that the first drug they used was marijuana.”

Citing drug addiction and mental health issues that are already prevalent in Culpeper, Chief Jenkins said “we already have a system that is failing addiction.” Citing his role on the Rappahannock-Rapidan Community Services Board, he said the coronavirus pandemic is causing a rise in mental health and substance abuse issues and legalizing marijuana could potentially exacerbate these issues.

Sheriff Jenkins and Chief Jenkins also expressed worry about a potential increase in automobile wrecks. Unlike with alcohol, Chief Jenkins said, a breath test is of no use while blood tests are costly, time-consuming and cannot be administered roadside. Additionally, he noted it will take a couple of years to train officers in the area of drug recognition while departments must also obtain and train new K-9s.

Chief Jenkins expressed worries over the potential rise of black market drug sales in which dealers would undercut legal prices and in turn diminish tax revenue. He also wondered whether legalizing marijuana will open a “Pandora’s Box” that could lead to more issues with youth.

With the rise of drugs being laced with fentanyl, Sheriff Jenkins asked: “Why on Earth would we want to just make it easier to have our young children influenced and led down that path by this obvious condoning of the use of marijuana and leading them down the thought process that drugs are OK?”

Legalizing marijuana, Chief Jenkins added, will make it more readily available to people who would have never used otherwise. He added that being under the influence leads to crime.

Rappahannock County Sheriff Connie Compton declined to comment.

Freitas expresses concern over ‘regulatory structures’

Of the three state senators representing Culpeper and Rappahannock counties, Sen. Jill Vogel served as the lone vote in favor of the legalization bill while Mark Obenshain and Bryce Reeves, who represents Culpeper, opposed the bill. In the house, delegates Michael Webert and Nick Freitas both opposed the bill.

Freitas (R-Culpeper) voted against the new measure, but not because he opposed decriminalizing marijuana. In fact, Freitas said he had wanted to endorse the bill but couldn’t support this one because it gives the state government too much regulatory power.

“I never look at these bills as a question of whether or not it’s an endorsement of using marijuana or not using marijuana. Personally I don’t think that’s really the issue,” he told his colleagues during a hearing in February.

Freitas added that the problem with the bill is “restrictions that are being put in place.”

“I feel as if we are going down a road where the government is going to have such control over a market that it’s not going to be determined by people being able to freely compete within that

market but essentially one in which your connection to government officials is going to be the deciding factor on whether or not you actually get to participate,” he said. “And I’m concerned about this sort of approach to regulatory structures going forward.”