

Rappahannock News

Marijuana will be legal in July. Now what?

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Decriminalization reduces drug arrests, but law enforcement worries about a gateway to harder drugs.

Rappahannock resident Cherl 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.

The General Assembly's decision to make Virginia the 15th state to legalize small quantities of recreational marijuana has drawn mixed reactions. While some see the bill as a progressive move in the right direction, others see it as the first step down a slippery slope.

But ready or not, come July 1, Virginia residents 21 and over will be legally allowed to possess one ounce of marijuana and grow up to four plants in their homes — so long as the plants are labeled and kept in a private location away from minors.

The law will go into effect one year after another piece of legislation downgraded the charge of possession from a misdemeanor — with penalties including fines and possible jail time — to a civil violation punishable by a mere \$25 citation. The new law also means that misdemeanor marijuana charges will be expunged from criminal records of those who have been penalized in the past.

While retailers cannot sell marijuana commercially until 2024, a new Cannabis Control Authority, which will oversee businesses and implement a “regulatory structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products,” is already well on its way to being established.

Though both advocates and opponents of marijuana legalization make passionate arguments to support their positions, the Cato Institute, a libertarian think tank, found that of those arguments the only empirical fact is that legalization increases tax revenue. Otherwise, the institute 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

In the three years before marijuana became decriminalized, it accounted for the majority of drug-related arrests in Virginia. A Virginia State Police report from 2019 shows that statewide drug arrests totaled 46,429, of which 26,470 (more than half) were marijuana-related. Earlier reports found that marijuana also accounted for the majority of statewide drug arrests in 2018 and 2017, at 59 percent and 61.3 percent respectively.

Since marijuana was decriminalized, the Culpeper Police Department reported that it has handed out only 44 citations, compared with 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 in 2021, in 2018 Culpeper County was among the top 20 counties nationwide for marijuana possession arrests per 100,000 people. 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 percent increase in its marijuana possession arrest rate. 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 Driving Under the Influence (DUI) and drug arrests tripled — and those figures continued to increase for the next three years. One single squad, he added, wrote more summonses and made more arrests in six months than the previous administration’s entire patrol division in four years.

A more troubling finding from the same ACLU study showed that statewide, despite “roughly equal usage rates,” 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, of all the counties in the country, Fauquier saw one of the largest increases in the racial disparity in marijuana possession arrests.

While Virginia has a slightly lower-than-average racial disparity in marijuana charges, Culpeper, Fauquier, Madison, Orange and Rappahannock counties all have racial disparities slightly higher than the national average. 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 is that we just generally don’t receive complaints and issues concerning those types of things,” he said. “That’s a non-issue for us.”

Culpeper law enforcement leaders staunchly oppose legalization

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

“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,” Scott Jenkins said.

“We already have a system that is failing addiction,” added Chris Jenkins, who, in addition to being the police chief, serves as a member of the Rappahannock-Rapidan Community Services Board. He said he worries that legalizing marijuana could potentially exacerbate mental health problems and substance abuse in the community and that he believes being under the influence leads to crime.

He also expressed concern that black market drug sales could undercut legal prices and in turn diminish tax revenue.

Rappahannock County Sheriff Connie Compton declined to comment for this story.

NAACP president calls for more action

Culpeper NAACP President Dr. Uzziah Harris said that though he believes legalizing marijuana is a positive action, legalization alone is actually not enough. More steps must be taken, he said, to rectify the disproportionate and adverse effects of marijuana policing on Black Virginians.

“I do applaud [the bill] 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 providing record expungement, Harris said, the state should ensure that profits from the marijuana industry are reinvested in the communities that have suffered from inequity.

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

Harris is also concerned that even after recreational cannabis is legal, inequities could remain in marijuana policing. Harris said that just like a police officer could say he detects the odor of alcohol, he could say he detects the odor of marijuana and determine that the driver is under the influence.

But unlike alcohol, the presence of marijuana in the body cannot be proven with a breathalyzer or blood test. Though the bill prohibits “using or consuming marijuana ... while in a motor vehicle,” judges or juries can presume a person has consumed marijuana only if an “open container is located within the passenger area.” An open container is defined as any “vessel” other than a manufacturer’s container that is holding marijuana. Marijuana can legally be stored in a vehicle’s trunk while a driver is operating the vehicle.

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

A win for the ‘liberation’ of the plant?

Cherl Crews, an art director and hemp advocate in Rappahannock County, sees this new legislation as a win for cannabis and those who use it for its recreational and therapeutic properties. A founding member of the Rappahannock Hemp Collective, a nonprofit dedicated to advancing the agricultural hemp industry in the region, Crews has been cultivating a community of hemp growers in Rappahannock County.

Hemp, pictured here, was federally legalized in 2018. "The cannabis plant is truly one of immeasurable worth and should not only be honored but free to grow on our farms, on hilltops and mountains, in our backyards and valleys or even in our window boxes," said advocate Cherl Crews. "It is our natural birthright!"

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 many industries, including textiles, paper, oils, rope, insulation, biofuel and a host of others. Hemp farming was legalized in the federal 2018 Farm Bill, but marijuana was left behind.

Though she sees the new bill as a net positive, she noted that it does little to create agricultural opportunity. “There are a lot of benefits to marijuana on a recreational level,” Crews said. “Right now what I think they’re trying to do is address the pot smokers and [replace] the tobacco

industry in addition to alcohol,” 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 said she is glad that marijuana, a plant she believes “is a hundred percent proactive drug” and not a gateway drug, is finally legal. (Scientists believe more research is needed before they can definitively say whether marijuana does or does not meaningfully increase the likelihood that a user might turn to opioids and other hard drugs.)

She feels relief knowing that now she can smoke marijuana while her friends drink alcohol and “not be judged as a drug addict.”

“It takes that pressure off a little bit and lets us regain our dignity,” she said.

Freitas concerned ‘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 opposed the bill. In the house, delegates Michael Weibert 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.”

While some support legalization, some county residents are still skeptical about the new law. Judith Hamm, a reader of the Rappahannock News, said while CBD has become very popular and readily available, marijuana should not be legalized.

“This [law] 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.

The Culpeper Times and Rappahannock News reached out to several behavioral health professionals in the region who either declined to comment or did not respond to our requests.