

# Economic Impacts of Marijuana Decriminalization in Kentucky

## Final Report

(Research in Progress)

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## **Introduction**

As we all know, marijuana production and use is currently prohibited by federal and state law and is classified as a Schedule I controlled substance. Schedule I substances are categorized by the government as those with a high potential for abuse, no accepted medical use and no safe level of use even under medical supervision. Although local, state and federal laws vary substantially, it is illegal throughout the United States to possess or distribute any amount of marijuana for any non-medical reason (except for federally approved research). Some state do, however, recognizes the drug's medical benefits by allowing patients with specified medical conditions to use marijuana with their physician's recommendation. Kentucky currently has legislation proposed to allow marijuana to be prescribed for medical purposes, as well as for the cultivation and production of industrial hemp.

The number of marijuana arrests taking place in the United States each year has skyrocketed in the past few decades. Police made 853,838 arrests in 2010 for marijuana-related offenses, according to the Federal Bureau of Investigation's annual Uniform Crime Report, released late last year. The annual arrest total is among the highest ever reported by the agency and is nearly identical to the total number of cannabis-related arrests reported the year before. Today, nearly half (42 - 46%) of the annual drug arrests now involve marijuana.

Annually, there are between 19,000 - 22,000 arrests for marijuana offenses in Kentucky, representing an arrest rate of 479 per 100,000, which ranks Kentucky third in the nation. There are an estimated 350,000 past year marijuana users in Kentucky, and when reconciling this estimate with the number of arrests for marijuana offenses, it provides an arrest rate of 5,808 per 100,000 users, it also places Kentucky third.

The absolute number and rate of marijuana arrests are at record levels and have been increasing, yet the classification of marijuana as an illegal drug continues to be controversial. Although researchers can show that heavy and long-term use of marijuana may produce adverse health effects, most conclude that occasional marijuana use does not create health problems for the vast majority of users.

Just as there is a lack of consensus that marijuana is more harmful than alcohol or tobacco, and thus requires greater legal suppression and criminal penalties rather than a regulatory and more public-health oriented public policy approach, there is also a lack of consensus and data that current policies are either successful at restricting access to marijuana, cost-effective, or both. The government publishes considerable data on marijuana, including its supply, use, availability, and price. Marginal changes in these figures are often spun by Administration officials as proof their policies are successful. Indeed, over the long-term, these data are reasonable indicators with which to evaluate the effectiveness of public policy.

But the economic and social costs of enforcing marijuana laws are staggering! Since Richard Nixon first declared a war on drugs in the early 1970, the costs of our is both

## **Decriminalization of Marijuana**

During the past thirty years or so there has been a sometimes heated and somewhat controversial debate about the possible advantages and merits of decriminalizing or legalizing marijuana. Beginning in the early 1970, several states (including Alaska, California, Colorado, Maine, Minnesota, Mississippi, New York, Nebraska, Nevada, North Carolina, Ohio, Oregon) reduced the penalties for marijuana possession or are considering it. A number of local jurisdictions have also modified local ordinances and enforcement practices to reduce penalties and decriminalize possession of Marijuana (Berkeley, Oakland and San Francisco, California, Breckenridge, Colorado, Amherst, Massachusetts, Madison and Milwaukee, Wisconsin, Urbana and Carbondale, Illinois, and Columbia, Missouri) (see, for example, Austin, n.d., for a list and discussion).

The situation in Kentucky is changing dramatically. Last year, the Kentucky General Assembly passed and the Governor signed into law, the Criminal Code Reform legislation, HB 463, basically reducing marijuana possession from a class A misdemeanor to a Class B. It further reduces the jail time a person can be sentenced to under a Class B misdemeanor from 90 days to 45 days. The Senate modified the bill modestly by adding more exemptions to a rule that limits when a police officer can make an arrest. Under certain conditions, officers will have to issue a citation rather than make an arrest. The bill requires officers to issue a simple citation when they witness the commission of a misdemeanor except in cases involving violence in which the defendant poses a risk of danger to himself or others, weapons possession, sexual abuse or failing to comply with an officer's instructions. State Senator Gerald Neal called the bill, "an important first step" and President Obama remarked recently that legalizing marijuana was an "issue worth debating"

During the past year, Washington and Colorado decriminalized the possession of marijuana and several other states are currently considering doing so as well.

One of compelling and appealing argument for marijuana decriminalization and the focus of this study is that it would save the various government entities massive amounts of money currently being spent on the enforcement of such laws. Austin (n.d) summarizes the basic tenets of this below:

- \* The criminal justice system, ranging from police to corrections, now allocates a significant portion of its budgets arresting, prosecuting, sentencing and incarcerating marijuana users, dealers and others involved in the illegal drug infrastructure (e.g., transporters, manufacturers of drug paraphernalia, etc.).
- \* If these behaviors would no longer be labeled as criminal, criminal justice agencies would reduce the enforcement and processing tasks now associated with such crimes.
- \* There is a direct relationship between the proportion of arrests or cases processed for marijuana crimes by the criminal justice system and the amount

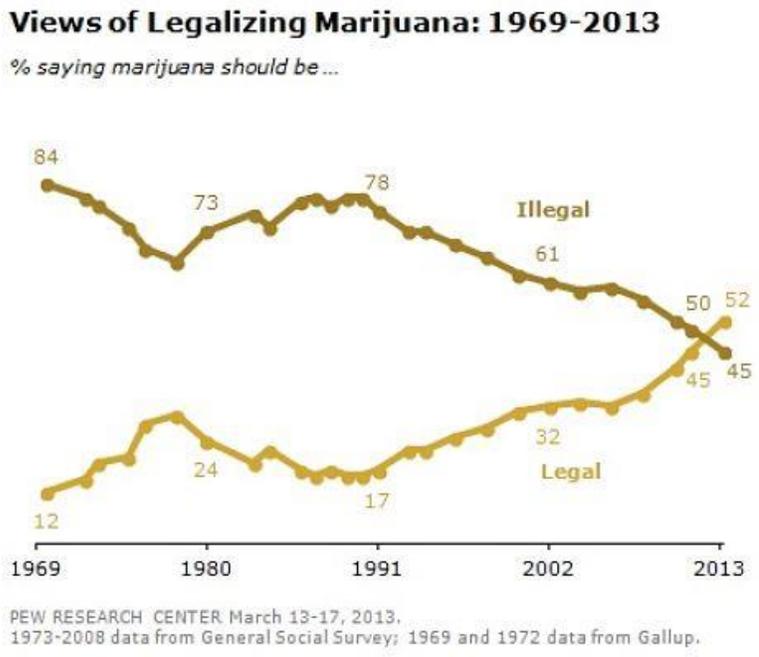
of money expended by these same agencies.

- \* By reducing or eliminating these marijuana related events, there would be a proportionate decrease in the agency expenses.

## Public Opinion

As indicated in Figure 1 below, support for the legalization of marijuana has been steadily increasing since the late 1960s (with the exception of the Reagan/Bush administrations) and is at an all time high.

Figure 1



There is growing support among elected officials and police administrators that we need to reexamine our policies toward drug enforcement, marijuana specifically.

Indiana State Police Superintendent Paul Whitesell, told the State budget Committee in November, 2012 that:

“It’s (marijuana) here, it’s going to stay, there’s an awful lot of victimization that goes with it, . . .” “If it were up to me, I do believe I would legalize it and tax it, particularly in sight [sic] of the fact that several other states have now come to that part of their legal system as well.” The superintendent recommended a system where marijuana users register with the state, “wherein if you are going to imbibe, you would go through there to be recognized or pay your taxes and keep some sense of it, give us some stats so you could monitor it in some fashion. And if you go around it in some other place, that’s where my folks would come in and take issue.” (WPFL News, 11/27/13).

In Kentucky, there are relatively few elected or appointed officials who support the legalization/decriminalization of marijuana; although the current discussions are taking place within the ongoing debate on legalizing industrial hemp. State Police Commissioner Rodney Brewer, stated after a meeting of the Kentucky Hemp Commission that state police are concerned that the agricultural benefits of allowing hemp will be offset by increasing law enforcement problems such as distinguishing between hemp and marijuana:

“It's incredibly difficult, if not impossible, to the casual observer or even the astute observer to tell the difference between hemp and marijuana as it's being grown.” Brewer says hemp is very similar to marijuana. He believes legalizing it would lead to more crime throughout the commonwealth (LEX18.com, 12/8/12) “We've heard that you can't get high off of hemp. You can get high off of hemp. . .” (WKYT, 02/11/13).

One national police organization, *Law Enforcement Against Prohibition*, states that:

“We believe that drug prohibition is the true cause of much of the social and personal damage that has historically been attributed to drug use. It is prohibition that makes these drugs so valuable – while giving criminals a monopoly over their supply. Driven by the huge profits from this monopoly, criminal gangs bribe and kill each other, law enforcers, and children. Their trade is unregulated and they are, therefore, beyond our control. History has shown that drug prohibition reduces neither use nor abuse. After a rapist is arrested, there are fewer rapes. After a drug dealer is arrested, however, neither the supply nor the demand for drugs is seriously changed. The arrest merely creates a job opening for an endless stream of drug entrepreneurs who will take huge risks for the sake of the enormous profits created by prohibition. Prohibition costs taxpayers tens of billions of dollars every year, yet 40 years and some 40 million arrests later, drugs are cheaper, more potent and far more widely used than at the beginning of this futile crusade. We believe that by eliminating prohibition of all drugs for adults and establishing appropriate regulation and standards for distribution and use, law enforcement could focus more on crimes of violence, such as rape, aggravated assault, child abuse and murder, making our communities much safer. We believe that sending parents to prison for non-violent personal drug use destroys families. We believe that in a regulated and controlled environment, drugs will be safer for adult use and less accessible to our children. And we believe that by placing drug abuse in the hands of medical professionals instead of the criminal justice system, we will reduce rates of addiction and overdose deaths” (LEAP, 2013).

## **Current State Reform Efforts**

The following provides a brief summary of states (current as of 8/30/2013) that are most likely to consider legalizing or decriminalizing marijuana in the near future. It should be noted that neither Kentucky (nor any other Southern state) is included.

## **Alaska**

In June, 2013 a ballot measure to tax and regulate marijuana and ultimately legalize it for adult recreational use was certified, and organizers are in the process of collecting (must be completed by December, 2013) the required 30,169 valid signatures of registered Alaska voters, which would ensure that the initiative will be on the primary held in August, 2014. Marijuana for medical use has already been decriminalized and legalized. A survey of Alaska voters taken in early 2013 by Public Policy Polling found that 54 percent supported legalizing marijuana.

## **Arizona**

In June of this year, a campaign to collect the required 259,213 signatures necessary to get the issue on the 2014 ballot began. The language of the proposed legislation is very comprehensive, and also includes a system for regulation and taxation. Marijuana was legalized for medical use in 2010 by ballot initiative. A poll taken in May by Behavioral Research Center found that 56 percent of Arizonans supported legalizing some amounts of marijuana.

## **California**

A statewide initiative to legalize marijuana did not pass in California in 2010, but earlier this year, organizers filed the California Hemp Act 2014, which would legalize cannabis both in its standard and non-psychoactive forms. As of October 1, the campaign will have 150 days to gather the required 750,000 valid signatures from California voters in order to get the issue on the 2014 ballot. Marijuana has already been legalized for medical use in California, and a recent poll found that 54 percent of Californians support legalizing marijuana for personal use.

## **Colorado**

In Colorado this year, Amendment 64 to the Colorado Constitution legalized the possession of up to one ounce of marijuana for adults over. In addition, individuals may also grow up to six plants for personal use; commercial marijuana stores, however, will not open until 2014, after the state legislature determines how to regulate them. Douglas County and other local jurisdictions still bans recreational marijuana sales under local ordinances. Smoking marijuana in public spaces, such as in parks or on sidewalks, remains illegal.

## **Nevada**

Advocates for marijuana reform in Nevada see 2016 as their best chance for a change in law. The state legalized medical marijuana, and earlier this year enacted a measure establishing a dispensary system to help increase access. According to a recent poll, 56 percent of residents would favor legalizing cannabis for recreational use if the money generated through taxation and licensing went to fund education.

## **Oregon**

Medical marijuana advocates plan to have an initiative placed on the ballot in 2014. An earlier legalization effort, which was poorly coordinated and widely ridiculed in the

state, failed in 2012. Oregon has already decriminalized marijuana and legalized it for medical use. According to a poll taken in May, 57 percent of likely voters in Oregon support a proposal to tax, regulate and legalize marijuana for recreational use.

### **Maine**

The pro-legalization Marijuana Policy Project has announced Maine as one of its top targets for their efforts in the near future. An initiative failed vote earlier this year, but the group has announced plans to help coordinate a grassroots campaign to get a legalization measure on the ballot in 2016. Marijuana has been decriminalized and approved for medical use in Maine, and according to a Public Policy Polling poll conducted recently, 48 percent of registered voters in Maine believe that marijuana should be legal for recreational use.

### **Massachusetts**

Massachusetts is seen as a prime opportunity for legalization, with high margins of support for previous legalization initiatives, although no official campaign for a ballot initiative has been launched yet this year. The state decriminalized marijuana in November, 2012, and passed a ballot measure legalizing it for medical use. A Public Policy Polling poll conducted this past February found that 58 percent of the state's residents would be in favor of legalizing, taxing and regulating cannabis.

### **Montana**

Voters in Montana passed an initiative legalizing cannabis for medical use in 2004, but opponents have on numerous occasions attempted to amend the measure or repeal it all together. Advocates for legalization are optimistic that voters will support full legalization, and are planning to get the issue on the ballot in 2014. There have been no recent statewide surveys to assess support for legalization, though previous polls have shown a majority of voters supporting decriminalization.

### **Rhode Island**

Advocates for reform are very optimistic that Rhode Island will be one of the next states to legalize marijuana. While there is not currently a high-profile campaign to get legalization on an upcoming ballot, the state Legislature during the last legislative session debated the legislation and invited witnesses to testify on its merits, but did not hold a vote. Rhode Island recently decriminalized marijuana and legalized medical marijuana in 2007. A poll this past January found that 52 percent of voters in the state support legalizing marijuana for personal use.

### **Vermont**

Vermont decriminalized possession during the past year, and a separate bill to establish a system of dispensaries for the state's medical cannabis patients was enacted. Governor Peter Shumlin (D), an advocate for marijuana reform, is expected to get reelected and this could be an indication that voters could support a ballot initiative to legalize marijuana possession. Polls have consistently shown Vermonters to be supportive of efforts to marijuana decriminalize marijuana.

### **Washington**

In Washington, Initiative 502 legalized possession and personal use of one ounce or less of marijuana for adults 21 and up. Similar to, “the consumption of marijuana in public spaces and driving under the influence of marijuana” remains illegal. Legal sales will not begin until at least December 2013 when Washington’s State Liquor Control Board sets up “a licensing system for the manufacture and sale of marijuana.”

## **Methodology**

This study has been conducted over the past year and will continue over the next year or so to assess the economic impact(s) of decriminalization of marijuana in Kentucky. As mentioned above, the cost savings and increased tax revenue at the national level approaches \$19 billion so it seems likely that Kentucky, if the state pursues these legal reforms, could benefit a great deal as well.

Both official arrest and financial information has been gathered, and personal interviews of key influential legislators in the Kentucky House and Senate are planned. With this data, is possible to estimate (to an acceptable accuracy) the economic impact of marijuana decriminalization in Kentucky. The following data (as available) has and is in the process of being collected, at both the state and county (where available) levels:

### **Arrest\*\***

#### *All Drugs*

Total Arrests

Total Drug Arrests

% of Arrests, Drug Violations

% of Arrests, Sale/Manufacture

% of Arrest, Possession

#### *Marijuana*

Total Arrests

Total Drug Arrests

% of Arrests, Drug Violations

% of Arrests, Sale/Manufacture

% of Arrest, Possession

### **Expenditures (Attributable to Marijuana Prohibition)\*\***

Law Enforcement Budget (Total)

Law Enforcement Budget (Sale/Manufacture)

Law Enforcement Budget (Possession)

Judicial Budget (Total)

% Convictions (Marijuana)

Judicial Budget (Marijuana)

Corrections Operating Budget (Total)

% Inmates (Marijuana)

Total State & Local Expenditures (All Drugs)

Total State & Local Expenditures (Marijuana)

Other Expenditures? (To be Determined)

**Projected Tax Revenues (Marijuana Decriminalization)\***

Estimated Consumer Expenditures (All Drugs estimate)

Estimated Consumer Expenditures (Marijuana estimate)

Marijuana Price (estimate)

Potential Revenue, 'Sin' Taxation

Potential Revenue, Standard Taxation

Other Tax Revenue Categories? (To be Determined)

**Consumer Marijuana Expenditures\***

**Drug Use\***

Results from Monitoring the Future survey

Results from National Household Survey on Drug Abuse

**Drug Treatment (Marijuana Admissions and Referrals)\***

Information to Be Determined

**Personal Interviews\***

Influential Kentucky House and Senate leaders will be interviewed (e.g., Speaker of the House, Senate Majority Leader)

Selected members of the Kentucky House and Senate with history of co-sponsorship of legislation in this area

Key law enforcement personnel in the State

\* Data collection in progress

\*\* Data collected and used to make preliminary assessments

Depending on the extent and availability of the information above, we will determine what additional comparisons to make and what economic models to use for our final forecasts and impact analysis. We have review several that might be applicable (as formulated or with some modifications) to the present study.

**Preliminary Findings**

The following three tables summarize the findings from the preliminary assessments of the data collected. Table 1 provided state-by-state arrest data for Kentucky and three

continuous states. The most important finding here is that over 2/3 of the drug possession arrests were for marijuana and percent of arrests for marijuana were for possession.

**Table 1**  
**State-by-State Arrest Data**

State	Total Arrests	Total Arrests Drug Violations	Total Arrests Possession	Total Arrests Marijuana		% of Total Arrests Marijuana Possession	% of Marijuana Arrests Marijuana Possession
				Possession	Sale		
<b>KY</b>	63,884	12,538	10,856	7,290	744	67%	90.7%
<b>IN</b>	215,449	23,363	18,616	11,695	1,556	62.8%	88.3%
<b>OH</b>	256,718	35,808	19,093	11,845	1,381	62%	89.6%
<b>TN</b>	304,793	43,459	32,461	19,038	4,115	58.6%	82.2%

Sources: Crime in the US (2007) report: <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2007>. Summary data from Miron and Waldock (2010).

Table 2 estimates state drug tax revenue from the decriminalization of marijuana in Kentucky, a 30 percent rate was assumed (from Miron, 2010) just for the preliminary analysis. For Kentucky, the revenue approximates \$40,000,000 per year. Please note that these are only rough figures and do not take into account expenses incurred (e.g, ABC-type supervision). For a detailed description of the two methods (population and consumption), see Miron and Waldrick (2010).

**Table 2**  
**State Drug Tax Revenue—Population Method & Consumption Methods, Millions of 2008 Dollars**

State	Population Method		Consumption Method	
	Tax Revenue from All Drugs	Tax Revenue from Marijuana	Marijuana Use Proportion %	Tax Revenue from Marijuana
All States	15,583.33	2,910.87	100	2,910.87
KY	218.80	40.87	1.38	40.11
IN	326.82	61.05	2.03	58.96
OH	588.66	109.96	3.95	115.02
TN	318.52	59.50	1.99	57.98

Source: Calculations provided in Miron (2010).

Table 3 provides data related to State and Local Expenditures Attributable to Marijuana Prohibition.

**Table 3**  
**State and Local Expenditures Attributable to Marijuana Prohibition, Thousands of 2008 Dollars**

State	Total Police Expenditures	Police expenditures on drug Violations	Police expenditures on Marijuana possession	Total judicial expenditures	Judicial expenditures on Marijuana violations	Total corrections expenditures	Corrections expenditures on marijuana violations
KY	634,648	70,634	36,211	181,508	17,492	734,285	11,528
IN	1,104,945	72,062	29,989	216,274	20,842	1,062,827	16,686
OH	2,852,685	223,798	94,053	702,050	67,657	1,968,938	30,912
TN	1,332,062	118,999	41,602	246,891	23,793	957,268	15,029

- (1) assumes 9.64% felony convictions, marijuana violations  
(2) assumes 1.575% corrections budget for marijuana violations

Sources: Police Expenditure and Judicial Budget: 2005–2006 State Government Finance Data, US Census: <http://www.census.gov/govs/estimate/>. Felony Convictions: <http://ojp.usdoj.gov/bjs/pub/html/scscf04/tables/scs04101tab.htm>. Corrections Budget: <http://www.census.gov/govs/www/estimate06.html>; <http://www.albany.edu/sourcebook/pdf/t600012005.pdf>. Budgets were originally reported for 2005–2006 and were converted to 2008 dollars with <http://www.bls.gov/cpi/home.htm#data>. Summary data from Miron and Waldock (2010).

## Preliminary Conclusions

Preliminary assessment of the data collected so far indicate that substantial tax revenues and huge reductions in State expenditures enforcing current marijuana laws could be realized with the decriminalization of marijuana in Kentucky. As updated information is analyzed and more rigorous analysis conducted, a more precise estimation as to the savings and reductions will be provided.

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