
SUBJECT: Prohibiting local deviation from state and federal drug enforcement policies

COMMITTEE: Public Safety — favorable, with amendment

VOTE: 6 ayes — Oakley, Carter, Keffer, Madden, Olivo, E. Reyna
0 nays
3 absent— Driver, Keel, McClendon

WITNESSES: For — Albert Sierra, San Marcos Housing Authority; Regis DeArza, Hays County Sheriff's Department; Dan Nelson, San Marcos Police Department; Nina B. Wright, San Marcos Drug Free Business Initiative
Against — None

DIGEST: HB 2213, as amended would prohibit the governing body of a municipality, county commissioners court, sheriff, municipal police department, or municipal, county, district or criminal district attorney from adopting a policy of not fully enforcing state or federal drug laws.

The bill would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

SUPPORTERS SAY: HB 2213 would preempt any local initiative to circumvent statutes outlawing illegal drug use. Advocates in some communities are waging persistent campaigns to place initiatives on the ballot to allow doctors to prescribe illegal drugs to treat illnesses or to give local law officers enforcement discretion in these circumstances. These initiatives would effectively legalize very addictive and dangerous narcotics, including heroin, LSD, methamphetamine and marijuana.

These initiatives, such as the one just defeated in San Marcos, can send young people an erroneous message that certain drugs are safe to use in certain circumstances. When one state decriminalized personal recreational use of marijuana between 1970 and 1990, the rate of use among young people doubled. Teenagers defend their use of marijuana as medicinal.

Any exception to current state and federal drugs laws would compromise the effectiveness of those laws and could lead to the legalization of more dangerous drugs. Local initiatives that attempt to give discretion to local law enforcement are simply the first step towards the legalization of more dangerous drugs. This bill would ensure the enforcement of drug laws and prohibit any local government from enacting policies attempting to weaken current drug laws under the guise of providing medical relief.

The decision of whether or not a medicine is safe and effective should be determined by scientific studies and the federal Food and Drug Administration, not by popular vote. Local measures that decriminalize drugs bypass FDA requirements that drugs be subject to rigorous scientific testing before being authorized. Local initiatives do not require a physical exam, a doctor prescription or specify the nature of a serious illnesses.

The National Institutes of Health has examined all research on marijuana and found no clinical evidence that it was superior to currently available therapies. Virtually all evidence of marijuana's effectiveness has been obtained by anecdotal hearsay, and no scientific studies have found it to be more effective than other drugs available by prescription. Furthermore, there are many prescription drugs that are available that provide more effective relief for cancer, glaucoma, AIDS and arthritis patients.

Reputable physicians treating these illnesses do not favor the use of marijuana. Although synthetic marijuana (THC) is available in prescription form, it is often the last choice of doctors because better and more effective medications are available. The American Medical Association, the FDA, the National Multiple Sclerosis Society, the American Glaucoma Society, the American Academy of Ophthalmology and the American Cancer Society have all rejected the use of smoked marijuana as medicine. Oncologists overwhelmingly reject the idea of prescribing smoked marijuana for the treatment of nausea associated with cancer chemotherapy. There is also no scientific evidence that marijuana prevents the progression of visual loss in glaucoma patients. It is neither compassionate nor responsible to prescribe to ill persons harmful, impure substances with so many side effects.

HB 2213 would not unfairly preempt local control; federal and state laws supersede any local attempts to legislate in this area.

OPPONENTS
SAY:

There are many people with cancer, AIDS, glaucoma, arthritis and multiple sclerosis who use marijuana to alleviate their pain and suffering. Many of these patients never smoked until they got sick. These people with legitimate illnesses who find relief in smoking are being held hostage by drug wars and politics and should not be criminalized. To terminally ill patients, adverse side effects are not an issue. Legislatures in 35 states have passed legislation that recognized the medical value of marijuana or authorized research into marijuana as a medicine. Doctors can legally prescribe morphine, cocaine and synthetic marijuana (THC) already.

The lack of studies meeting FDA stringent criteria is not due to scientific flaws but to the legal, bureaucratic and financial obstacles. In fact, the FDA has recently approved a synthetic version of a chief ingredient in marijuana. This indicates that the real argument is not over the effectiveness of marijuana at relieving pain, but over the fear that the government may be perceived as soft on drugs. There is also no danger that doctors would begin running prescription mills for legalized marijuana; doctors would be closely monitored and most would not want to come under suspicion.

HB 2213 would represent an unwarranted intrusion by the state into local control over health and safety issues.

NOTES:

The committee amendment would reference federal laws as well as state laws.