

RESOLUTION NO. 76-2021
URGING THE IMMEDIATE AMENDING OF SENATE BILL NO. 3454
STATE OF NEW JERSEY

Councilmember Leckstein introduced and offered the following Resolution for adoption; seconded by Councilmember Keeler:

WHEREAS, Public Question 1, the "Marijuana Legalization Amendment," was on the ballot in New Jersey as a legislatively referred constitutional amendment on November 3, 2020; and

WHEREAS, the text of the ballot question was provided as follows:

CONSTITUTIONAL AMENDMENT TO LEGALIZE MARIJUANA

Do you approve amending the Constitution to legalize a controlled form of marijuana called "cannabis"?

Only adults at least 21 years of age could use cannabis. The State commission created to oversee the State's medical cannabis program would also oversee the new, personal use cannabis market.

Cannabis products would be subject to the State sales tax. If authorized by the Legislature, a municipality may pass a local ordinance to charge a local tax on cannabis products.

WHEREAS, Public Question 1 was approved with 67.08% "Yes" votes and 32.92% "No" votes; and

WHEREAS, on February 22, 2021, legislation was signed into law legalizing and regulating cannabis use and possession for adults 21 years and older (A-21, The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act) and decriminalizing marijuana and hashish possession (A-1897). Also signed into law was S-3454, addressing marijuana and cannabis use and possession penalties for individuals younger than 21 years old and imposing criminal penalties on law enforcement officers; and

WHEREAS, the majority of New Jersey residents last Fall voted in favor to legalize marijuana for use by adults at least 21 years of age. There is no question, nor debate, on the outcome of the ballot question. However, New Jersey residents were not aware at the time of their vote that this would eventually lead to a new law making law enforcement officers "guilty of a crime" if they notify parents of children under the age of 18 that their child was caught with marijuana or alcohol, on the first offense; and

WHEREAS, as a result of this new law, our law enforcement officers will be guilty of a crime if they notify parents that an underage child is using or in possession of marijuana or alcohol on their first offense. Only if the child is found again using or in possession can a law enforcement officer notify the parents; and

WHEREAS, the legislation is treacherous to law enforcement officers because it creates a penalty of 3rd Degree Deprivation of Civil Rights if an officer uses the odor or possession of marijuana or alcoholic beverages as the reason for initiating an investigatory stop of a person. The new law states that a law enforcement officer cannot use the odor of marijuana or alcohol as reasonable articulable suspicion to initiate an investigatory stop. The new law states a minor cannot consent to be searched and that a law enforcement officer no longer has probable cause to search a minor for illegally using marijuana or alcohol. Further, if an officer violates a minor's rights by using pot or alcohol as the reason for a search, then the officer will be charged with the crime of Deprivation of Civil Rights; and

WHEREAS, Senate Bill No. 3454 establishes penalties of only warnings for illegal use by minors of marijuana or alcohol but it essentially prevents an officer from even approaching a person suspected of being a minor. The smell of marijuana and its use in the presence of a law enforcement officer will no longer be grounds to search an individual. While marijuana is now legal for those 21 and older, Senate Bill No. 3454 is an assault on law enforcement's ability to enforce the law. Senate Bill No. 3454 is an attack on law enforcement officers by making law enforcement officers the target of punishment rather than the individuals breaking the law. This language will have dangerous consequences for the public and law enforcement officers; and

WHEREAS, the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey continue to strive to support the local law enforcement effort and recognize that the resources of law enforcement is already drastically strained.

NOW, THEREFORE, BE IT RESOLVED the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey does hereby urge the immediate amending of Senate Bill No. 3454 so as to remove the offending provisions cited above based upon the below stated findings:

1. Senate Bill No. 3454 ignores the judgment of parents over the lives of their children. The requirements of the new law will keep parents in the dark about what may be happening in their children's lives. It shows children there are no major consequences if they are found using marijuana or alcohol for the first time. Parents should have the right to know if their child is using or in possession of marijuana from the first encounter and be given the chance to discuss its consequences before it potentially becomes a larger issue.
2. Senate Bill No. 3454 takes a huge step backward on the path of ensuring children are aware of both the short-term and long-term consequences of drug and alcohol use. Essentially, the new law is telling children they have one "free pass" to get caught with marijuana or alcohol before there are any real consequences.
3. Senate Bill No. 3454 unfairly and unreasonably imposes criminal penalties on law enforcement officers if they are found to have violated new rules dictating underage possession. The odor of cannabis or alcohol will no longer be enough to justify a search. The same holds true for "the unconcealed possession" of an alcoholic beverage, marijuana, hashish or cannabis item, according to the bill text.
4. Senate Bill No. 3454 turns law enforcement officers into criminals. It establishes a legal set of enforcement powers, but it criminalizes the actual enforcement of those powers.
5. Senate Bill No. 3454 contradicts a prior law that banned smoking tobacco products on beaches and boardwalks, something which was of extreme benefit to beach communities such as the Borough of Sea Bright, but now that law may be essentially unenforceable when it comes to smoking marijuana on beaches and boardwalks. Underage users of marijuana will now be free to smoke it anywhere, including in places the law says is illegal, because merely stopping a person to enforce the law is now illegal for police. Drug dealers will quickly learn to hide their drugs, guns and evidence of crimes on anyone under 18 years of age since merely lighting a joint as the officer approaches will put the officer in jeopardy of making an illegal search and being charged criminally.
6. Senate Bill No. 3454 goes well beyond the express terms of the ballot question and the intent of New Jersey's voters when they approved the question.
7. Governor Murphy and the State Legislature should take urgent steps to amend Senate Bill No. 3454 to protect our children and law enforcement officers.

BE IT FURTHER RESOLVED that the Borough Clerk of the Borough of Sea Bright shall forward a certified true copy of this resolution to the Governor of the State of New Jersey; Lieutenant Governor of the State of New Jersey; the New Jersey State Legislature; the members of the Monmouth County Legislative Delegation; New Jersey League of Municipalities; all County Boards of County Commissioners; the Mayor and Council of all towns within the County of Monmouth and the New Jersey State PBA, 158 Main Street, Woodbridge, New Jersey 07095.

Roll Call: Birdsall, Booker, Catalano, Keeler, Lamia, Leckstein
 Yes Yes Yes Yes Yes Yes

March 16, 2021

Certification

I, Christine Pfeiffer, Borough Clerk, do hereby certify the foregoing is a Resolution adopted by the Borough of Sea Bright, in the County of Monmouth, State of New Jersey, at a Council Meeting held on March 16, 2021

Christine Pfeiffer
Christine Pfeiffer, Borough Clerk

