

Penalties lighter in Nebraska

by Gary Seacrest
Nebraska Staff Writer

A person arrested in Nebraska for possession of marijuana is subject to penalties which are less severe than in many other states.

In Nebraska possession of marijuana in certain instances is a misdemeanor instead of an automatic felony. Although marijuana is not a narcotic, federal laws and most state laws now define it as such.

In Virginia, for example, the minimum penalty for possessing more than 25 grains (about half a teaspoon) of marijuana is 20 years imprisonment.

LB2, enacted by the 1969 Nebraska Unicameral, provides that first offense possession of less than 25 marijuana cigarettes or less than a half pound of preparations, compounds, mixtures or substances of marijuana is a misdemeanor and punishable by a sentence of 7 days in the county jail, separate and apart from other prisoners.

Another provision of the law provides that every person sentenced to the county jail, state penal complex, or placed on probation for possession of marijuana or its derivatives shall be required to take a drug education course. The course is conducted by the State Health Department and deals with the medical, psychological, and social effects of the misuse of drugs.

Nebraska law controlling depressant and stimulant drugs was revised by the 1967 Legislature. The law makes it unlawful to manufacture, distribute, deliver, or possess LSD or other hallucinogenic, depressant, stimulant or counterfeit drugs for harmful or illegitimate purposes.

People who violate this law will be charged with a felony. For a first offense, punishment is a fine of not less than \$500 nor more than \$3,000, or imprisonment for not less than two years nor more than five years. For a second or subsequent offense punishment is a fine of not less than \$1,000 nor more than \$5,000 and imprisonment for not less than five years nor more than 10 years.

The Nebraska law on depressant and stimulant drugs does not make a legal distinction between professional criminals, confirmed addicts and casual drug users.

Enforcement powers of drug laws are invested in the Nebraska Safety Patrol's Division of Drug Control. The state has the right to make use of undercover agents on the University of Nebraska campus to enforce the drug control act.

The University of Nebraska policy on drugs in the past has been to cooperate with federal and state authorities in the prevention of drug misuse. The University has also suspended students who have been convicted of violating drug laws.

By a 1963 law, drug addiction is considered a disease in Nebraska. Any person found using a habit-forming narcotic drug will be examined by a court-appointed medical team. If results of the examination show substantial proof that a person is an addict, the court, according to the law, has to commit the user to a state hospital for treatment.

The 1966 Federal Narcotic Addict Rehabilitation Act is similar to the Nebraska act. The federal law outlines

commitment, examination and treatment procedures for narcotic addicts and is aimed at rehabilitation through treatment.

The current federal laws controlling drugs are comparatively severe and in some instances contradictory. The federal penalty for sale of marijuana is now two to 10 years in prison for a first offender, while the sale of the more dangerous LSD carries only a maximum one year prison term and a \$1,000 fine.

A second federal conviction for selling marijuana carries four times the potential maximum penalty as manslaughter and some types of sabotage. Current federal law threatens the same punishment to a casual user of marijuana as it does to a pot peddler.

In July the Nixon Administration proposed a new drug control act that was designed to fight the growing menace of drugs. The proposed act would have made the penalties applying to marijuana and LSD the same as those for such dangerous, habit-forming drugs as cocaine and heroin: up to 10 years in prison for possession and up to 80 years in prison for the third conviction of selling to persons under 18.

However, due to pressure from many sources the Nixon Administration proposed a new and different drug control act in October. A Senate committee is now hearing proposals that would constitute the first comprehensive revision of federal narcotics penalties since 1937.

For the first time, distinctions would be drawn between professional

criminals, confirmed addicts, and casual drug users.

Under the new federal proposals, mandatory jail sentences for possession of drugs only — now a minimum of two years — would be eliminated. In some instances, possession for a person's own use would be changed from a felony to a misdemeanor. The proposals recommend reducing the federal penalty for possession of marijuana by a first offender to a misdemeanor.

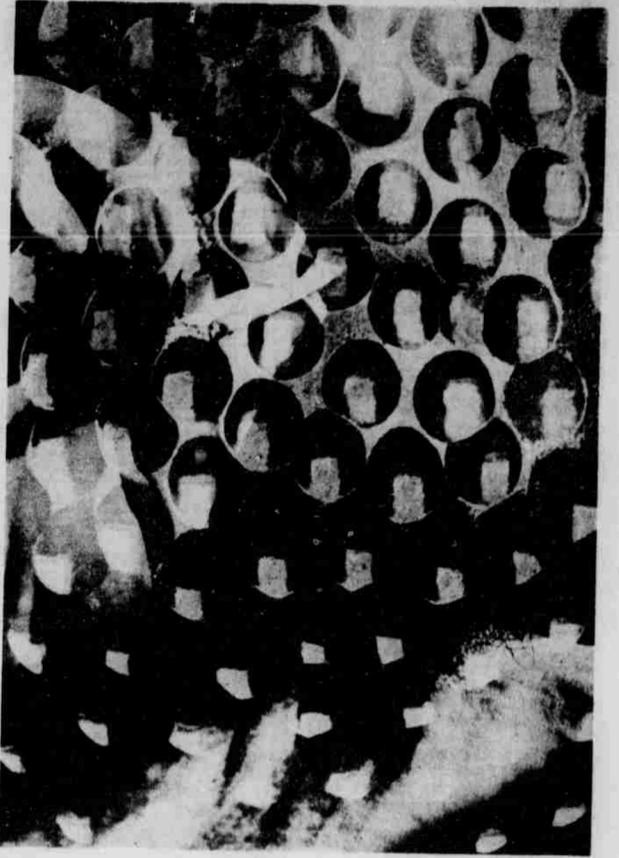
Possession of a dangerous drug with intent to sell would remain a felony with a possible five year jail sentence under the proposed law.

There would still be no legal distinction between marijuana and heroin, however. But the proposed law would allow judges the latitude to grant leniency in marijuana cases. Federal officials claim the new proposals are more flexible than drug laws in 35 states.

Three alternative penalty schedules will be offered to Congress. Under all three the maximum penalty for possession of harmful drugs would be changed from 10 years imprisonment and a \$5,000 fine to one year and a \$5,000 fine for first offenders. The recommended codes will give judges more discretion to deal with cases individually.

Maximum penalties for sale of narcotics would vary under the new proposals from 12 years in jail and a \$25,000 fine to 20 years and a \$25,000 fine. The current penalty is 20 years imprisonment and a \$20,000 fine.

The Department of Justice is also developing a model State Narcotics and Dangerous Drugs Act.



Control of Nebraska's pot crop: two views

"If eradication amounts to habitat destruction, which is the theoretical end-point, then it should not even be considered."

Phil Agee of the Nebraska Game and Parks Commission

Eradication of the Nebraska marijuana crop is virtually impossible, according to the chief of the research division in the Nebraska Game and Parks Commission.

Eradication efforts, says Phil Agee, would be a severe disruption upon the state's plant and animal population.

"There has been one method known that would certainly kill the weed," Agee says, "but if the method was used, it would create more problems than it would solve."

The method (2, 4-D) cannot deal exclusively with marijuana without affecting other plant and animal life, says Agee, who has conducted research relevant to the problems which would develop, if eradication ever is attempted.

"First of all," Agee points out, "marijuana is extremely widespread in the state. It would be very difficult and very expensive to attempt eradication. A lot of the weed, which grows in creek beds, fence rows, near railroad tracks and in other equally inaccessible areas, would be hard to get to."

Agee says that eradication, or even an attempt to severely reduce the marijuana crop, would create uncompensating repercussions. "Any environment is made up of many parts," he explains. "Grassy, weedy, and woody plant species make up what we call a biological or plant community. A disruption to any of these species," he continues,

"produces an effect upon all. The net effect of eradication with 2, 4-D would severely reduce the broad-leaf plants. The plants would be replaced by grass. Ecologists know that this is virtually impossible. In essence, you are removing an entire vegetation complex and replacing it with sod."

Grasses move in by natural sequence when plants die," Agee adds. "The seeds in the hemp of marijuana are valuable to wildlife. It is next to impossible to try to destroy this plant life artificially. There are 10,000 miles of stream bottoms alone which would have to be examined and treated."

Not only would eradication by 2, 4-D affect broad-leaf plant life, but it also would affect all

trees and shrubs, which are equally vulnerable to the ecological shift, according to Agee.

"When you shift to grass only, you are leaving some grasses tolerant only to certain animal life," Agee points out. "For instance, the bob-white quail could not survive the shift. The species requires a mixture of grassy, weedy and woody species."

Agee, who says that there seems to be no practical eradication solutions, also claims there are few logical weed control ideas.

"Nebraska has deep, rich soils," he says, "which are very adaptable for marijuana. The marijuana crop, which is an annual plant, has a wide range of adaptability, however. Soil, humidity and rainfall levels all affect its growth."

Wildlife needs marijuana, he adds, because marijuana provides a valuable range to the habitats that it occupies. "If eradication amounts to habitat destruction, which is the theoretical end-point, then it should not even be considered."

"I just wonder if the Game Commission knows what they are talking about when they say that marijuana is essential to certain plant and animal life."

Dr. Laren R. Robison

Nebraska's marijuana crop can affectively be controlled without eradication, according to a University of Nebraska extension specialist in weed control.

The specialist, Dr. Laren R. Robison, says, "I just wonder if the Game Commission knows what they are talking about when they say that marijuana is essential to certain plant and animal life."

Robison, who admits that he agreed with the Game Commission before, says that most persons assumed the Commission was right in equating the importance of marijuana as valuable food to certain plants and animals.

"I certainly feel that marijuana is an important source of food for some wildlife in the early fall," Robison says, "but I wonder really how long it serves in the diet of certain

birds. I think that it's an important question to really look into."

Robison says he shifted viewpoints after simply looking at the seed and examining the plant. "I, like others, assumed, it was needed for wildlife," he says, "but no one ever looked to really see. I found that most of the time the seed shatters, dies and is covered with snow before most birds have a chance to get to it."

Therefore, Robison contends, a severe reduction in the marijuana crop would not necessarily create harmful repercussions upon the state's plant and animal life.

"Eradication obviously is impossible," he concedes, "because any eradication talk is an effort in futility. A large-scale spray program can kill things not intended. Everything is an off-target in a spray pro-

gram. Broad leaves are especially susceptible."

Large-scale control

Robison, however, feels that a large-scale control program of marijuana is not necessarily harmful.

"We need to know the life history of the plant before making any decisions," Robison says. "I don't think it would take long to compile the data we need because marijuana is an annual plant, not a perennial one."

Robison suggests a research team effort to study the plant's history. "It would take a special appropriation, probably from the federal government, since the answers which would develop from such a study would serve a useful need for the entire Midwest."

Although admitting that

eradication of marijuana is out of the question, Robison says that an effective control program could, perhaps, be incorporated.

"I think that a competitive species reseeding program could be effective," Robison says. "Our wide open-spaced lands are an open canopy, which successfully could be reseeded. This, at least, would curb the harvest of the plant, if such was called for."

Robison claims that little study has been devoted to the possible biological control of marijuana. "If we really wanted to destroy the seed," he says, "it might be able to be done, if the proper study could reach a conclusion."

"We may be able to import an effective control," he adds, "from Australia or Idaho, for example. Also, thistles eat seeds. There may be something that would eat the seed every year, and since marijuana is an annual weed, the seed would be destroyed each year. Eventually, there would be no reproduction."

Research surveys and other studies are needed, however, for these possibilities to materialize, Robison says.

Nation's top druggist

Pot may be 'no more dangerous than alcohol'

by John Dvorka
Nebraskan Staff Writer

Young people sometimes assume that the older generation, and especially government officials, are against even the existence of marijuana. It's not always true.

In fact the former director of the U.S. Food and Drug Administration, Dr. James L. Goddard, has adopted a wait and see attitude on the legalization of marijuana.

"I would have to say that a great deal of

the marijuana controversy in past years is related to the society's moral sense, rather than to a physiological or medical sense," Goddard said in a telephone interview from his Atlanta, Ga., home.

Goddard resigned from the Food and Drug Administration in May 1968 after two stormy years on the job. At one point during his term, he stated that marijuana may be no more dangerous than alcohol.

"The problem is that we have done very little research in the past 30 years on marijuana," he continued. "We should not have research on this subject impeded."

More marijuana research

The 46-year-old physician, who now conducts applied medical technology with an Atlanta firm, has joined with other doctors, government officials, the American Public Health Association and the American Medical Association to encourage marijuana research.

"We really don't know about its clinical effects yet," he said. "I think we will know in a relatively short period of time."

Obvious effects of the weed are well known of course. But there are several important questions remaining to be answered, as Goddard pointed out.

—Does long term use of marijuana have harmful effects?

—Does the drug affect human chromosomes?

—What affect does it have on the reproductive processes?

Several government agencies are underwriting an extensive study of marijuana.

The first phase of the program — providing adequate supplies of the drug for testing

— is underway. The third phase — clinical tests on humans — has just begun.

If all goes well, most necessary information will be available in two or three years, according to some estimates.

No addictive qualities

Goddard is convinced there is nothing inherent in marijuana which makes it addictive, or encourages the use of more potent drugs.

"My main concern is about the very young; those who may have psychiatric problems or social adjustment problems," he said. It is conceivable that such youngsters could become dependent on the use of marijuana, just as other older persons become alcoholics.

The doctor, who has three college-age children, admits there is a distinct possibility that marijuana may be quite harmful. If it's not, he feels, the country should be embarrassed by the harsh set of laws that have made innocent people suffer, particularly in the past several years.

"I think without question that most marijuana laws are too restrictive in nature," he said. "They tend to make a felon out of a user."

For instance, a Virginia youth is now serving a 20-year jail term for possession of three pounds of the weed. In Nebraska, a person's first marijuana conviction is generally a misdemeanor.

Goddard hedges, however, when asked if marijuana should be legalized. He will reserve judgment.

"Now this isn't a cop out. We just don't know enough about it," he said. State laws should, he added, be changed to conform with national laws. That would make the mere pos-



Goddard: a "wait and see" attitude toward legalization of pot